NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

CIS Congressional Information Service, Inc
Washington, D.C.

S. Hrg. 99-980

ADDITIONS TO THE WILD AND SCENIC RIVERS SYSTEM, BOUNDARY ADJUSTMENTS TO UNITS OF THE NATIONAL PARK SYSTEM, AND REVISION OF A SKI AREA PERMIT SYSTEM ON NATIONAL FOREST LANDS

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 1019/H.R. 2182, S. 2266, S. 2287, S. 2320, S. 2351, S. 2466, S. 2483, and S. 2532

JUNE 20, 1986

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
65-494 O WASHINGTON : 1987

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

S311-13

COMMITTEE ON ENERGY AND NATURAL RESOURCES

JAMES A. McCLURE, Idaho, *Chairman*

MARK O. HATFIELD, Oregon	J. BENNETT JOHNSTON, Louisiana
LOWELL P. WEICKER, Jr., Connecticut	DALE BUMPERS, Arkansas
PETE V. DOMENICI, New Mexico	WENDELL H. FORD, Kentucky
MALCOLM WALLOP, Wyoming	HOWARD M. METZENBAUM, Ohio
JOHN W. WARNER, Virginia	JOHN MELCHER, Montana
FRANK H. MURKOWSKI, Alaska	BILL BRADLEY, New Jersey
DON NICKLES, Oklahoma	JEFF BINGAMAN, New Mexico
CHIC HECHT, Nevada	JOHN D. ROCKEFELLER IV, West Virginia
DANIEL J. EVANS, Washington	

Frank M. Cushing, *Staff Director*
Gary G. Ellsworth, *Chief Counsel*
D. Michael Harvey, *Chief Counsel for the Minority*

Subcommittee on Public Lands, Reserved Water and Resource Conservation

MALCOLM WALLOP, Wyoming, *Chairman*

LOWELL P. WEICKER, Jr., Connecticut	DALE BUMPERS, Arkansas
CHIC HECHT, Nevada	JOHN MELCHER, Montana
MARK O. HATFIELD, Oregon	BILL BRADLEY, New Jersey
PETE V. DOMENICI, New Mexico	JEFF BINGAMAN, New Mexico
FRANK H. MURKOWSKI, Alaska	

James A. McClure and J. Bennett Johnston are Ex Officio Members of the Subcommittee

Tony Bevinetto, *Professional Staff Member*

CONTENTS

Page
S. 1019 1
H.R. 2182 1
S. 2266 1
S. 2287 1
S. 2320 1
S. 2351 1
S. 2466 1
S. 2483 1
S. 2532 2

STATEMENTS

Alberswerth, David, National Wildlife Federation, Denver, CO, on S. 2266 108
Badami, Nick, chairman of the board, Alpine Meadows of Tahoe, Inc., CA, on S. 2266 89
Blomeke, Steve, executive director, Colorado Wildlife Federation, Washington, DC, on S. 2266 130
Bradley, Hon. Bill, a U.S. Senator from the State of New Jersey, on S. 2287 37
Cochran, Hon. Thad, a U.S. Senator from the State of Mississippi, on S. 2532 31
D'Amato, Hon. Alfonse M., a U.S. Senator from the State of New York, on S. 2483 47
Downey, Hon. Thomas J., a U.S. Representative from the State of New York, on S. 2483 50
Dyer, Polly, president, Olympic Park Associates, Seattle, WA, on S. 2351 273
Evans, Brock, vice president for national issues, National Audubon Society, on S. 2351 199
Evans, Hon. Daniel J., a U.S. Senator from the State of Washington, on S. 2351 161
Fox, Warren E., chairman, Atlantic County's Parks and Recreation Advisory Commission, on S. 2287 366
Galvin, Denis P., deputy director, National Park Service, Department of the Interior 172
Gorton, Hon. Slade, a U.S. Senator from the State of Washington, on S. 2351 28
Haglund, Dr. Brent M., Wisconsin State director, the Nature Conservancy, on S. 1019 320
Healy, William A., president, Mt. Bachelor, Ski Corp., Bend, OR, on S. 2266 as presented by David Marsh 73
Hecht, Hon. Chic, a U.S. Senator from the State of Nevada, on S. 2266 159
Herbert, Dr. Allen J., Ruston, LA 416
Hughes, Hon. William J., a U.S. Representative from the State of New Jersey, on S. 2287 35
Hurn, Dean, president, Hoh River Timber Co., Beaver, WA, on S. 2351 255
Inouye, Hon. Daniel K., a U.S. Senator from the State of Hawaii, on S. 2320 27
Johnston, Hon. J. Bennett, a U.S. Senator from the State of Louisiana, on S. 2466 25
Kasten, Hon. Robert W. Jr., a U.S. Senator from the State of Wisconsin, on S. 1019 and H.R. 2182 29
Kuehne, M.J., executive vice president, Northwest Independent Forest Manufacturers, Tacoma, WA, on S. 2351 248
Matsunaga, Hon. Spark M., a U.S. Senator from the State of Hawaii, on S. 2320 151
McCollister, Paul, chairman, Jackson Hole Ski Corp., Teton Village, WY, on S. 2266 96

Page

McGinnis, Helen J., Mississippi Chapter, the Sierra Club, Edwards, MS, on S. 2532 419
Moore, Terrence D., executive director, New Jersey Pinelands Commission, New Lisbon, NJ, on S. 2287 396
Moynihan, Hon. Daniel Patrick, a U.S. Senator from the State of New York, on S. 2483 41
Nelson, Hon. Gaylord, counselor, the Wilderness Society, on S. 1019 333
Olson, Eric, associate director of conservation, American Rivers Conservation Coalition, on S. 2287, S. 2466, and S. 2532 403
Peterson, Hon. R. Max, chief, Forest Service, Department of Agriculture, on:
    S. 2266 53
    S. 2351 169
    S. 2466 190
    S. 2532 192
Peterson, Mark R., director, Sigurd Olson Environmental Institute, Northland College, Ashland, WI, on S. 1019 325
Pierce, Robert, administrator, National Park Trust, National Parks and Conservation Association, on:
    S. 2351 195
    S. 2320 289
Pritchard, Charles, Hamilton Township Riverfront Residents, Mays Landing, NJ, on S. 2287 339
Proxmire, Hon. William, a U.S. Senator from the State of Wisconsin, on S. 1019 and H.R. 2182 38
Raines, Charles, chairman, National Park Committee of the Cascade Chapter, Sierra Club, Seattle, WA, on S. 2351 266
Reich, Walter C., president, Fire Island National Seashore Advisory Board, Sayville, NY, on S. 2483 434
Ripley, Elmer C., Mays Landing, NJ, on S. 2287 395
Scott, Michael D., deputy director, conservation, the Wilderness Society, Washington, DC, on S. 2266 139
Stearns, John P., president, Fire Island Association, Inc., New York, NY, on S. 2483 425
Tam, William M., deputy attorney general, State of Hawaii, Land and Transportation Division, Honolulu, HI, on S. 2320 282
Wallop, Hon. Malcolm, a U.S. Senator from the State of Wyoming 1

APPENDIXES

Appendix I

Responses to additional committee questions 439

Appendix II

Additional material submitted for the record 446

ADDITIONS TO THE WILD AND SCENIC RIVERS SYSTEM, BOUNDARY ADJUSTMENTS TO UNITS OF THE NATIONAL PARK SYSTEM, AND REVISION OF A SKI AREA PERMIT SYSTEM ON NATIONAL FOREST LANDS

FRIDAY, JUNE 20, 1986

U.S. Senate, Subcommittee on Public Lands, Reserved Water and Resource Conservation, Committee on Energy and Natural Resources,

Washington, DC.

The subcommittee met, pursuant to notice, at 10:35 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Malcolm Wallop, presiding.

Present: Senators Wallop, Hatfield, Hecht, Evans, and Bradley.

Also present: Tony Bevinetto, professional staff member, and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator Wallop. Good morning, colleagues and ladies and gentlemen. This morning the Subcommittee on Public Lands, Reserved Water and Resource Conservation will hear testimony on the following bills:

S. 1019 and H.R. 2182, to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore;

S. 2266, to establish a ski area permit system on national forest lands established from the public domain, and for other purposes;

S. 2287, to amend the Wild and Scenic Rivers Act to designate a certain portion of the Great Egg Harbor River in the State of New Jersey for potential addition to the Wild and Scenic Rivers System;

S. 2320, to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes;

S. 2351, to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes;

S. 2466, to designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System:

S. 2483, to amend the Fire Island National Seashore Act of 1964; and

S. 2532, to amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System.

I am going to place a copy of each of those bills in the hearing record.

[The texts of the bills referred to follow:]

II

99TH CONGRESS
1ST SESSION

S. 1019

To authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore.

IN THE SENATE OF THE UNITED STATES

APRIL 26 (legislative day, APRIL 15), 1985

Mr. PROXMIRE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF ADDITIONAL LANDS IN APOSTLE ISLANDS NATIONAL LAKESHORE.

(a) ADDITION.—Section 1 of the Act of September 26, 1970 (Public Law 91–424; 16 U.S.C. 460w), is amended by inserting "(a) IN GENERAL.—" immediately before the first sentence thereof and by adding the following new subsection at the end thereof:

"(b) LONG ISLAND ADDITION.—

"(1) INCLUSION OF AREA.—After the date of the enactment of this subsection, the Apostle Islands National Lakeshore shall include, in addition to the areas referred to in subsection (a), approximately two hundred acres of land at the mouth of Chequamegon Bay known as Long Island, as depicted on the map numbered , and dated . Such map shall be on file and available for inspection as provided in subsection (a).

"(2) APPLICATION OF PROVISIONS.—The provisions of this Act shall apply to the additional area described in this subsection in the same manner as such provisions apply to the area described in subsection (a), except that in applying section 4(c) of this Act to the area described in this subsection, the date '1985' shall be substituted for the date '1967'."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Act is amended by adding the following at the end thereof: "Effective October 1, 1985, there are authorized to be appropriated such additional sums as may be necessary for acquisition of the lands described in section 1(b).".

○

II

99TH CONGRESS
1ST SESSION

H. R. 2182

IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 1985

Received; read twice and referred to the Committee on Energy and Natural Resources

---

AN ACT

To authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of September 26, 1970 (P.L. 91-424; 16 U.S.C. 460w) is amended as follows:

(1) In section 1—

(a) in the first sentence, after the phrase "consisting of", insert: ": (a) IN GENERAL—";

(b) at the beginning of the first sentence, delete "1970" and insert: "1970; and

"(b) LONG ISLAND ADDITION.—Approximately 200 acres of land at the mouth of Chequamegon Bay known as

'Long Island', as depicted on the map numbered NL–AI–91,001 and dated December, 1985.";

(c) in the last sentence, delete "map" and insert "maps".

(2) In section 3, after the word "donation.", strike the following sentence and insert in lieu thereof the following: "Notwithstanding any other provision of law, any Federal property located within the boundaries of the lakeshore is hereby transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the lakeshore: Except, that the United States Coast Guard may retain a right to utilize a portion of such land and facilities for use as navigational aids so long as may be required."

(3) In section 4(c), after "January 1, 1967", insert: ", or before January 1, 1985 for those lands referred to in section 1(b)."

(4) Section 8 of such Act is amended by adding the following at the end thereof: "Effective October 1, 1986, there are authorized to be appropriated such additional sums as may be necessary for the acquisition of the lands described in section 1(b)."

Passed the House of Representatives December 16, 1985.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

II

99TH CONGRESS
2D SESSION

S. 2266

To establish a ski area permit system on national forest lands established from the public domain, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27 (legislative day, MARCH 18), 1986

Mr. WALLOP (for himself, Mr. CRANSTON, Mr. HECHT, Mr. SIMPSON, Mr. SYMMS, Mr. HATCH, Mr. GARN, Mr. HART, Mr. PRESSLER, and Mr. MCCLURE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish a ski area permit system on national forest lands established from the public domain, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Forest Ski Area Permit Act of 1986".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) consolidate existing laws pertaining to ski areas on national forest lands established from the

public domain and provide a unified and modern nordic and alpine ski area and facility permitting process;

(2) provide for ski area permits which more closely reflect the acreage and other physical requirements of modern ski area and facility development; and

(3) provide a permit which will be more commensurate with the long-term construction, financing, and operation needs of ski areas on national forest lands established from the public domain.

SKI AREA PERMITS

SEC. 3. (a) The provisions of the Acts of June 4, 1897 (30 Stat. 34) and March 4, 1915 (16 U.S.C. 497) notwithstanding, the issuance of permits for the operation of commercial nordic and alpine ski areas and facilities on National Forest System lands established from the public domain shall henceforth be governed by this Act and other applicable law.

(b) The Secretary of Agriculture (hereinafter referred to as "the Secretary"), subject to such reasonable terms, conditions, and permit fees as he deems appropriate, is hereby authorized to issue permits (hereinafter referred to as "ski area permits") for the use and occupancy of suitable lands within the National Forest System established from the public domain for commercial nordic and alpine skiing operations and purposes. A ski area permit shall (1) ordinarily be issued for a term of fifty-five years (unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation); (2) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee's needs for ski operations and ancillary facilities; (3) may be renewed at the discretion of the Secretary; and (4) may be canceled by the Secretary, in whole or in part, for any violation of the permit terms or conditions or for nonpayment of permit fees. The acreage under permit may be increased or decreased from time to time by the Secretary to accommodate changes in plans or operations as the Secretary deems appropriate in consultation with the permittee.

(c) Within one year of the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act, and shall, within two years of the date of enactment of this Act, convert all existing ski area permits or leases on National Forest System land established from the public domain into ski area permits which conform to the permit term and other provisions of this Act.

○

II

99TH CONGRESS
2D SESSION

S. 2287

To amend the Wild and Scenic Rivers Act to designate a certain portion of the Great Egg Harbor River in the State of New Jersey for potential addition to the wild and scenic rivers system.

IN THE SENATE OF THE UNITED STATES

APRIL 10 (legislative day, APRIL 8), 1986

Mr. BRADLEY (for himself and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Wild and Scenic Rivers Act to designate a certain portion of the Great Egg Harbor River in the State of New Jersey for potential addition to the wild and scenic rivers system.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GREAT EGG HARBOR RIVER.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by adding at the end thereof the following new paragraph:

"(92) Great Egg Harbor River, New Jersey: The entire river.".

(b) COMPLETION DATE.—Section 5(b)(3) of such Act is amended by adding at the end thereof the following: "The study of the river named in paragraph (92) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (4) of section 5(b) of such Act is amended by adding at the end thereof the following: "Effective October 1, 1986, there are authorized to be appropriated for the purpose of conducting the study of the river named in paragraph (92) such sums as may be necessary.".

○

II

99TH CONGRESS
2D SESSION

S. 2320

To amend an Act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, APRIL 8), 1986

Mr. INOUYE (for himself and Mr. MATSUNAGA) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend an Act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO HAWAII VOLCANOES NATIONAL PARK.

The Act entitled "An Act to add certain lands on the island of Hawaii to the Hawaii National Park, and for other purposes" (52 Stat. 781; 16 U.S.C. 391b) is amended by adding at the end the following new section:

"SEC. 5. (a) Notwithstanding any other provision of this Act, the Secretary of the Interior (hereinafter referred to as the 'Secretary') is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange the land and interests therein comprising approximately 5,650 acres and identified as tract number 118/22 on the map entitled 'Recommended Land Acquisition', in the Hawaii Volcanoes National Park Land Protection Plan as recommended May 17, 1985, which plan shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior, Washington, D.C. and the Office of the Superintendent, Hawaii Volcanoes National Park, Hawaii.

"(b) In exercising his authority to acquire the real property referred to in subsection (a) by exchange, the Secretary may accept title thereto and in exchange therefor he may convey to the grantor of such real property title to any United States Government real property under his administrative jurisdiction, other than real property within or administered as a part of the National Park System, in the State of Hawaii which he determines is suitable for such exchange. The values of the properties exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. In no circumstance shall an equalization payment exceed one fourth (25 percent) the appraised value of the real property referred to in subsection (a). Any money paid to the Secretary shall be deposited as miscellaneous receipts in the Treasury of the United States.

"(c) Real property owned by the State of Hawaii or any political subdivision thereof may be acquired only by donation or exchange.

"(d)(1) In order to facilitate the acquisition of the real property referred to in subsection (a) by exchange, notwithstanding any other provision of law, upon request of the Secretary, the Administrator of General Services shall transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii for purposes of such an exchange.

"(2) For the purposes of a land exchange with the State of Hawaii, the Secretary shall consult with the State of Hawaii in the process of identifying suitable exchange lands belonging to the United States Government.

"(3) For the purposes of a land exchange with the State of Hawaii, real property owned by the United States Government and selected for use in a land exchange shall not be from among those lands ceded to the United States Government.

"(e) The real property acquired by the Secretary pursuant to this section shall be administered by the Secretary as part of Hawaii Volcanoes National Park, subject to the laws and regulations applicable to the Park.

"(f) There is hereby authorized to be appropriated such sums as may be necessary to carry out the acquisition of real property under this section.".

○

II

99TH CONGRESS
2D SESSION

S. 2351

To revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 22 (legislative day, APRIL 21), 1986

Mr. EVANS (for himself and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The boundary of Olympic National Park, Washington, is hereby revised to include within the park approximately two thousand two hundred and seventeen acres and to exclude from the park approximately one thousand two hundred and thirty-six acres as generally depicted on the maps entitled "Boundary Modifications, Olympic National Park", numbered 149/60,030, sheets 1 through 4, and dated April 1986, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) The boundary of Olympic National Forest, Washington, is hereby revised to include in the national forest approximately one thousand two hundred and thirty-six acres and to exclude from the national forest approximately one thousand nine hundred and fifty-four acres as generally depicted on the maps entitled "Boundary Modifications, Olympic National Park", numbered 149/60,030, sheets 1 through 4, and dated April 1986, which shall be on file and available for public inspection in the office of the United States Forest Service, Department of Agriculture.

SEC. 2. (a) Federal lands, waters, and interests therein formerly within the boundary of Olympic National Forest which are included within the boundary of Olympic National Park pursuant to section 1 of this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the park, and shall be subject to all the laws and regulations applicable to the park.

(b) Federal lands, waters, and interests therein formerly within the boundary of Olympic National Park which are excluded therefrom pursuant to section 1 of this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of Olympic National Forest, and shall be subject to all the laws and regulations applicable to the National Forest System.

SEC. 3. (a) The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest or otherwise any non-Federal lands, waters, and interests therein included within the boundary of Olympic National Park pursuant to section 1 of this Act.

(b) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9), the boundary of the Olympic National Forest, as modified pursuant to section 1 of this Act, shall be treated as if it was the boundary of that national forest on January 1, 1985.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

○

II

99TH CONGRESS
2D SESSION

S. 2466

To designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System.

IN THE SENATE OF THE UNITED STATES

MAY 20 (legislative day, MAY 19), 1986

Mr. JOHNSTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph:

"(56) SALINE BAYOU, LOUISIANA.—The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered fs-57, and dated March, 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.".

○

II

99TH CONGRESS
2D SESSION

S. 2483

To amend the Fire Island National Seashore Act of 1964.

IN THE SENATE OF THE UNITED STATES

MAY 21 (legislative day, MAY 19), 1986

Mr. MOYNIHAN (for himself and Mr. D'AMATO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Fire Island National Seashore Act of 1964.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of September 11, 1964 (78 Stat. 930; 16 U.S.C. 459e–2) is amended by adding at the end thereof the following new subsection:

"(h) Within the boundaries of the Seashore, notwithstanding any other authority of Federal or State law, any matter that is covered by regulations of the Secretary under subsection (a) shall be governed exclusively by the ordinances approved in accordance with subsection (c).".

○

II

99TH CONGRESS
2D SESSION

S. 2532

To amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System.

IN THE SENATE OF THE UNITED STATES

JUNE 10 (legislative day, JUNE 9), 1986

Mr. COCHRAN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end thereof the following new paragraph:

"(58) BLACK CREEK, MISSISSIPPI.—The segment from Fairley Bridge Landing upstream to Moody's Landing as generally depicted on a map entitled 'Black Creek Wild and Scenic River', numbered fs-58 and dated March 1986, to be administered by the Secretary of Agriculture as a scenic river area under section 2(b)(2). For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, such sums as may be necessary for the acquisition of lands and interests in lands and for development.".

○

Senator **Wallop**. The hearing record will remain open for 2 weeks after today, during which time written testimony on any of these measures can be submitted to the subcommittee.

In the interest of time I am going to ask witnesses to limit oral statements to 3 minutes. Please keep an eye on the lighted timer we have displayed. When you see the yellow light come on, you will know that you have 1 minute remaining to speak. Please begin to make your concluding remarks at that time and when the red light comes on, finish your sentence and please stop.

Additional written comments may be provided and the entire testimony, oral and written, will be included in the record.

[A prepared statement for the record from Senator Johnston on S. 2466 follows:]

Statement of Senator Johnston

Mr. Chairman, I want to express my appreciation to you for holding this important hearing today to hear testimony on several natural resource related measures, including S. 2466. This legislation, which I introduced on May 20, would designate a segment of the Saline Bayou as a component of the Wild and Scenic Rivers System.

Saline Bayou is located in central Louisiana and, for the most part, is within the boundary of the Kisatchie National Forest. It is generally considered one of Louisiana's most scenic and unique streams. During the 1960's, as canoeing increased in popularity, the Forest Service designated and maintained the segment of the bayou between Cloud Crossing recreation area and State Highway 156 as a river float trip area. The bayou, with its placid moving flow, meandering route, black water and moss-draped cypress trees, is very picturesque. The upper section is characterized by towering pines and bottomland hardwoods, while the lower area is dotted with bald cypress. There is a diverse wildlife population in the area. Deer and raccoon are common. Beaver are found along the lower segments of the bayou, and bobcat and grey fox are frequently seen. Turkey, cormorant, several species of woodpecker and wood duck, and the blue heron are common along the entire length of the bayou.

S. 2466 is identical to the Saline Bayou bill that passed the House this spring as part of its omnibus rivers package. This bill was sponsored by Congressman Jerry Huckaby, who has taken the lead in preserving this beautiful stream.

Designation of this segment of the river, which would be administered by the Secretary of Agriculture, enjoys widespread support, and I am hopeful that the Committee on Energy and Natural Resources and the Senate will act expeditiously on this measure.

Senator WALLOP. Let me turn for a moment to S. 2266 which I introduced on March 27, with 13 cosponsors from the Western States that have ski areas operating under permits from the Forest Service. The House Interior Committee has reported the companion bill, H.R. 4489, with an amendment in the nature of a substitute. The main difference in the bill which I introduced and the House reported bill is the permit term. In my bill the term is for 55 years ordinarily. In the House reported bill, the term is not to exceed 40 years ordinarily.

The House reported bill did consolidate the multiple permits to one permit. I would ask the witnesses to comment on a 40-year time period and the rationale for that time period. It is my hope that we can move on this bill.

Now, I have a list here in the order in which Senators have arrived, and so I will proceed in that way. The first to arrive is our colleague from Hawaii, Senator Inouye, who I think is here for the ski bill. [Laughter.]

STATEMENT OF HON. DANIEL K. INOUYE, A U.S. SENATOR FROM THE STATE OF HAWAII, ON S. 2320

Senator INOUYE. Mr. Chairman, I thank you very much for this invitation to testify in support of S. 2320.

My colleague, Senator Matsunaga, and I introduced this measure to address the urgent need to acquire a parcel of land immediately adjacent to the Hawaii Volcanoes National Park. The National Park Service listed this parcel as its highest priority acquisition in the Pacific Basin since 1951. This has been the Park Service's highest priority because it has been identified by biologists as an ecosystem not now adequately encompassed and protected in the National Park System. It is a roadless, unused tract of land that encompasses a superb native ohia and tree fern rain forest and serves as the habitat of the critically endangered Hawaiian Hawk and the Hawaiian O'u, a small bird.

I would also mention that Congress identified the same parcel as suitable for potential wilderness in 1978 when it was found to possess all the necessary attributes for wilderness designation excepting its non-Federal status.

In May 1982, the U.S. Department of the Interior issued a policy statement for use of the Federal portion of the Land and Water Conservation Fund, outlining Agency guidelines identifying its responsibility for land protection in federally administered areas.

In response to this policy, a land protection plan for Hawaii Volcanoes National Park was prepared. The major issue addressed by this land protection plan was to identify the means necessary to provide sufficient protection to those non-Federal lands which are (1) authorized additions to the park; (2) contain intact resource values of national significance; and (3) are being threatened by nonpark uses, either now or in the future. At issue here is the identification of the most reasonable way to avoid the construction of a large-scale geothermal power project on lands adjacent to the park.

Mr. Chairman, this bill will facilitate the National Park Service's efforts to acquire this tract of land through exchange with the

State of Hawaii, and at the same time allow the Park Service to protect this area by moving the area designated for geothermal development further down the rift zone.

I suggest that the committee invite Mr. Bill Tam from the State of Hawaii to explain in detail the efforts the State has made to manage geothermal development in this area.

I cannot stress enough the importance of this bill to the State of Hawaii and the National Park Service. During this time of budget constraints, I feel that this proposal of acquiring needed land through exchange is an excellent path to follow. Further, Secretary Hodel has stated the administration's support of exchanges when he testified before the Appropriations Committee in fiscal year 1986 on his Agency's intent to emphasize the acquisition of lands through means other than Federal appropriations.

I would hope that this committee will look upon this measure with favor.

Before closing, Mr. Chairman, I would like to clarify language contained in section 5(d)(3) of this measure. The real property acquired by the State of Hawaii through the exchange process in this act shall not be from among the lands ceded to the United States in 1898, since these lands revert to the State of Hawaii automatically when no longer needed by the United States.

Thank you very much, sir.

Senator **WALLOP**. Thank you very much. We appreciate it and will put it into, as you can see, a long list of fairly important pieces of legislation from various parts of the country.

Senator **INOUYE**. Mr. Chairman, I like your policy of first come, first served.

Senator **WALLOP**. Thank you for coming. I appreciate it.

Senator Gorton was second.

STATEMENT OF HON. SLADE GORTON, A U.S. SENATOR FROM THE STATE OF WASHINGTON, ON S. 2351

Senator **GORTON**. Thank you, Mr. Chairman.

I am here today to testify for S. 2351, designed to revise the boundaries of the Olympic National Park and the Olympic National Forest in the State of Washington. The bill implements the recommendations of both the National Park Service and the United States Forest Service contained in the December 1985 environmental assessment.

Located on the Olympic Peninsula in Washington, both the Olympic National park and the Olympic National Forest contain a vast abundance of natural resources within the more than 1.5 million acres that are administered by the two Agencies. The national park and the national forest share many miles of common borders. As a result of their close proximity, the two agencies work together very cooperatively. Both agencies are to be commended for their efforts in developing this legislative proposal which results from that cooperation.

When boundaries were established years ago, much of the land had been inadequately surveyed. Boundaries were frequently drawn along township and section lines. Many of these boundary lines do not correspond with the natural topographic, hydrographic, and ecological features of the land itself. Redrawing boundary lines along these natural features is far more logical. It will enable both these agencies better to manage and protect their resources.

In addition to the exchange of land between the Park Service and the Forest Service, the environmental assessment also recommends the acquisition of 223 acres of private land along the Soleduck Road and 88 acres of private land along Lake Crescent. I vigorously support these acquisitions. Soleduck Road is an important access corridor into the park. The land along the road contains older second growth forests. If the property is not acquired soon, it will almost certainly be lost.

I urge the committee to take prompt action on this bill so that the scenic entrance into the park will be protected.

S. 2351 will remedy many of the land management problems that both Agencies face as a result of these illogical boundaries. The boundary adjustments will better enable the Park Service to protect entire watersheds and ecosystems. The adjustments will also allow the Forest Service to reach timber management sites that have had blocked access because park land separates the forest land.

I support the effort of these Agencies to revise boundaries along the land distinctions occurring in nature to better facilitate each Agency's land management objectives. I hope that you, Mr. Chairman, and my colleagues on the Energy and Natural Resources Committee will concur about the benefits of this bill and will proceed with the timely consideration of this legislation.

Senator **Wallop**. Slade, thank you. Just for your information, your colleague, Senator Evans, who is a member of this committee will chair that portion of the hearing, so we will defer all further testimony on that until those from the administration testify.

Senator **Gorton**. Thank you, Mr. Chairman.

Senator **Wallop**. Thank you.

Senator Kasten.

STATEMENT OF HON. ROBERT W. KASTEN, JR., A U.S. SENATOR FROM THE STATE OF WISCONSIN, ON S. 1019 AND H.R. 2182

Senator **Kasten**. Thank you, Mr. Chairman.

Good morning, and thank you for the opportunity to testify before you and members of your committee. I am pleased to be here this morning to testify in favor of the inclusion of Long Island in the Apostle Islands National Lakeshore.

Adding this parcel to the Apostle Islands National Lakeshore will both enhance recreational opportunities and provide better protection to one of the most important wetlands in the entire Great Lakes Basin.

Long Island is one of the Nation's finest and most fragile ecosystems. This rare and beautiful area provides biologic, historic, educational, scientific and recreational opportunities. Its features are of national significance and have long been a priority for protection by the Wisconsin National Areas Preservation Council.

Long Island is also one of the most significant migration routes for many species of birds. It is one of the best shorebirding areas in our State. In fact, this sand spit is the home of the piping plover, a

Federal endangered species. The Island also hosts a rich variety of vegetation such as marsh, bog, wet meadow, dunes and also dry forest.

Long Island is historically as well as biologically signficant. It was once the heart of early fur trading for the entire Great Lakes region. The first major lighthouse in western Lake Superior is on this island. In addition, Long Island is of substantial ecological, cultural and religious importance to a number of the Indian tribes.

Special knowledge and skills are needed to manage these resources. The island currently faces substantial risks due to vandalism and destruction. Only 37.5 percent of Long Island is privately owned. Despite responsible stewardship by private landowners, the island as a whole is not being managed effectively. The Park Service will be able to provide this additional protection.

Various groups have contacted us during the past year and expressed concern over the acquisition of a delicate ecosystem such as Long Island without the adoption of a carefully considered stewardship plan. When the Long Island bill passed the House of Representatives on December 16, 1985, there had not been any discussions, either formal or informal, about balancing an increased use of the island by recreational users with preservation of the integrity of the island's resources. All apparently wanted to protect the island but we had not been able to reach a consensus concerning the proper mechanism.

I am happy to have worked with others, including a number of people in our delegation, in facilitating over the past several months a consensus among environmental groups, landowners, Indian tribes and local and county interests regarding prudent management of Long Island. Groups previously opposed or neutral to the acquisition felt their interests were adquately addressed in the newly reached cooperative management agreement.

All interested parties agree that the primary goal must be to protect the natural and cultural resources on Long Island. The secondary goal should be the development of human use and visitation patterns which are compatible with such protection.

The discussions regarding Long Island's stewardship have also led to the negotiation of a protection program for areas adjacent to the Kakagon Slough Chequamegon Point lands which fall outside of the legislation's boundaries. The Nature Conservancy has brought together the Wisconsin Department of Natural Resources and local Indian tribes to work toward better protection of this region. They will work toward better management of the bald eagle, patrolling of areas that may potentially affect the unique and fragile wild rice beds, and guarding the region from invading plants.

This new consensus provides for greater environmental protection with a broader based input of ideas, of energy and, most importantly, of support. It not only promotes the conservation or critical habitats and endangered species; it also promotes many educational, recreational and inspirational opportunities for the public.

Quoting Wisconsin's famous environmentalist Otto Leopold:

> The ability to see the cultural value of wilderness boils down to a question of humility. The shallow minded modern who has lost his rootage in the land assumes

that he has already discovered what is important. It is such empire, political or economic, that will last a thousand years.

I wholeheartedly support this effort and I urge you and your committee to act quickly to move this legislation forward.

Mr. Chairman, I thank you very much for the opportunity to testify this morning.

Senator WALLOP. Bob, thank you. We have here three questions which you have asked that we submit to the Park Service. You are welcome to stay if you wish to do that yourself, or we will have them submitted for you.

Senator KASTEN. Mr. Chairman, I do not believe I am going to be able to stay for the remainder of the hearing, but I thank you very much for your consideration on our questions.

Senator WALLOP. All right, thank you.

Next, Senator Cochran.

STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM THE STATE OF MISSISSIPPI, ON S. 2532

Senator COCHRAN. Thank you, Mr. Chairman, for the opportunity to testify before your committee today. I am here to urge the committee to favorably consider including a segment of Black Creek in the State of Mississippi as a part of the National Wild and Scenic River System.

This segment of this stream is described more particularly in a bill, S. 2532, which I earlier introduced here in the Senate. This is in Perry County, MS and a part of it is in a national wilderness area which was designated 2 years ago and has been found as having those characteristics, requisite to make it eligible for designation as a National Wild and Scenic River. This was part of the inventory that was done by the National Park Service. The designation is supported by the U.S. Forest Service.

I am also authorized to say that Senator Stennis supports this designation and has asked to be added a cosponsor to the bill. We hope that the committee will favorably consider our request.

[The prepared statement of Senator Cochran follows:]

JUNE 20, 1986

STATEMENT BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

BY SENATOR THAD COCHRAN

DESIGNATION OF BLACK CREEK AS A WILD AND SCENIC RIVER

SENATE BILL S.2532

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I WANT TO THANK YOU FOR SCHEDULING THIS HEARING ON S.2532 WHICH AMENDS THE WILD AND SCENIC RIVERS ACT BY DESIGNATING A SEGMENT OF THE BLACK CREEK IN SOUTHEASTERN MISSISSIPPI AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

THE SEGMENT OF THE BLACK CREEK UNDER CONSIDERATION IN THIS BILL IS LOCATED IN PERRY COUNTY, MISSISSIPPI. THE TWENTY ONE MILE SEGMENT TO BE DESIGNATED BY THIS BILL HAS BEEN IDENTIFIED BY THE NATIONAL PARK SERVICE NATIONWIDE RIVERS INVENTORY AS CONTAINING EXCEPTIONAL SCENIC, RECREATIONAL, GEOLOGIC, FISH, AND WILDLIFE VALUES. THE U.S. FOREST SERVICE FEELS THAT THIS SEGMENT OF THE BLACK CREEK IS INDEED WORTHY OF BEING INCLUDED IN THE PRESTIGIOUS "NATIONAL WILD AND SCENIC RIVERS SYSTEM".

I AM FIRMLY CONVINCED MR. CHAIRMAN, THAT IF YOU AND THE OTHER DISTINGUISHED MEMBERS OF THIS COMMITTEE COULD VISIT THE BLACK CREEK, AND WITNESS FOR YOURSELF THE WHITE SANDS, THE LUSH GREEN OVERHANGING VEGETATION, THE COLORFUL RED CLAY VERTICAL BLUFFS, THE MOSS COVERED BANKS, AND OBSERVE THE WILDLIFE WHICH HAS BEEN INCLUDED IN THE THREATENED AND ENDANGERED SPECIES LIST SUCH AS THE AMERICAN ALLIGATOR, SOUTHERN COAL SKINK, SOUTHERN HOGNOSE SNAKE, AND THE RED-COCKADED WOODPECKER, IN ADDITION TO AN ABUNDANCE OF SPECIES NOT INCLUDED ON THIS LIST SUCH AS THE GREAT BLUE HERON, WOOD DUCK, MARSH HAWK, TURKEY, BEAVER, DEER, RIVER OTTER, GRAY AND RED FOX, YOU TOO WOULD SHARE THE CONVICTION THAT I HAVE FOR THE PASSAGE OF THIS BILL.

MR. CHAIRMAN, IN 1984 I INTRODUCED SENATE BILL NUMBER S. 2808 DESIGNATING THE FIRST TWO WILDERNESS AREAS IN MISSISSIPPI. THESE TWO AREAS WERE IDENTIFIED AS THE BLACK CREEK WILDERNESS AREA AND THE LEAF RIVER WILDERNESS AREA. THIS BILL WAS PASSED BY CONGRESS ON OCTOBER 2 OF THAT SAME YEAR AND SUBSEQUENTLY BECAME PUBLIC LAW 98-515. SENATE BILL S.2532, BEING CONSIDERED TODAY, WOULD DESIGNATE THE FIRST WILD AND SCENIC RIVER IN MISSISSIPPI, APPROXIMATELY 6 MILES OF WHICH IS WITHIN THE BOUNDARIES OF THE BLACK CREEK WILDERNESS AREA DESIGNATED IN 1984.

THE WILDERNESS AREA DESIGNATION OF 1984 AND THE WILD AND SCENIC RIVER DESIGNATION REQUESTED IN THIS BILL HAVE RECEIVED WIDE SUPPORT FROM CITIZENS AND ENVIRONMENTAL GROUPS IN MISSISSIPPI. THROUGH THIS CITIZEN INVOLVEMENT, WE ARE ASSURING THE PRESERVATION AND CONSERVATION OF AN IMPORTANT PART OF MISSISSIPPI HERITAGE FOR ALL GENERATIONS TO STUDY AND ENJOY.

MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO PROVIDE THIS TESTIMONY. I URGE THE COMMITTEE TO ACT FAVORABLY ON THIS SENATE BILL NUMBER S. 2532.

Senator **Wallop**. Thank you. I wonder if we have to change the name of it to Black Creek River to put it into the Wild River System.

Senator **Cochran**. I do not think that is necessary, Mr. Chairman.

Senator **Hatfield**. Mr. Chairman, I wonder if the Senator from Mississippi would read the list of those endangered species. I am not sure I understand what some of them are.

Senator **Cochran**. I am not sure I could pronounce them all, Mr. Chairman. I will say to the Senator that I appreciate his at least reading that and noticing how important it is to preserve these endangered species and others that are found in that area.

Senator **Hatfield**. What is a southern coal skink? Do you mean skunk?

Senator **Cochran**. I presume it is. The Senator will notice that I did not include that in my presentation to the committee.

Senator **Hatfield**. I noted that.

Senator **Wallop**. But the skinks are rarer than skunks. I know that. [Laughter.]

Senator **Cochran**. Thank you very much, Mr. Chairman.

Senator **Wallop**. Now we have our colleague from the House, Representative Bill Hughes from New Jersey Second District.

STATEMENT OF HON. WILLIAM J. HUGHES, A U.S. REPRESENTATIVE FROM THE STATE OF NEW JERSEY, ON S. 2287

Mr. **Hughes**. Thank you, Mr. Chairman.

Good morning, Mr. Chairman and members of the committee. I am very pleased that the Energy and Natural Resources' Subcommittee on Public Lands, Reserved Water and Resource Conservation has scheduled today's hearings on S. 2287, legislation to provide for the Department of the Interior to study the Great Egg Harbor River in southern New Jersey for potential addition to the National Wild and Scenic Rivers System.

As you may know, I introduced a very similar bill, H.R. 4293, earlier this year. The Great Egg Harbor River study provision has subsequently been included in H.R. 4350, Wild and Scenic Rivers Act Amendments legislation which passed the House on April 8 of this year.

As you know the Wild and Scenic Rivers Act of 1968 was established as a national policy to preserve in free-flowing condition selected rivers and their immediate environments which possess outstanding scenic, recreational, historic, cultural and related values. The act which created the National Wild and Scenic Rivers System was designed to preserve these important rivers in their natural state for future generations of Americans to enjoy.

The Great Egg Harbor River, which rises in Berlin Township in Camden County and flows southerly into Great Egg Harbor is one of New Jersey's greatest natural resources. The river is one of the few nationwide that has met all of the criteria for inclusion in the National Wild and Scenic Rivers inventory. Its location in the New Jersey Pinelands National Reserve gives the river additional status both nationally and internationally.

The Great Egg Harbor River, which is the longest canoeable river in the Pinelands, offers much to the people of our region and is well known for its fishing, boating, and recreational activities. Each year, particularly in the summer, people come to enjoy the alluring beauty and serenity that the river offers. The undisturbed environment offers the opportunity to spend a peaceful afternoon along the river and to enjoy the bounty of nature.

The landscape surrounding the Great Egg Harbor River typifies south Jersey with its marshes, fields, and forests. The area provides a unique habitat for the large number of animals and birds, and is home to five species of threatened or endangered plants. The endangered Pine Barrens treefrog, gray treefrog and timber rattlesnake are also found in the area along with the unique pitch pine stands found extensively in the Pine Barrens. Beaver, otter, and muskrat thrive in the wetlands along with 44 species of game birds, ospreys and nesting bald eagles.

The shores of the Great Egg Harbor River are also steeped in history. The river has provided opportunities for hunting since the 1970's. Remains of 17th and 18th century sawmills, papermills, gristmills, early factories and intact 18th and 19th century villages are commonplace throughout the watershed. Cranberries and blueberries, two of New Jersey's most valuable food crops, are cultivated locally along the river.

During the past year, I have heard from a number of municipalities in the area, urging that the Great Egg Harbor River be protected and maintained for all to enjoy as nature meant it to be. All of us who live and work in south Jersey are concerned about the future of the river and would like to assure that its water quality and recreational opportunities are maintained.

The Great Egg Harbor River is a tremendous natural, cultural and recreational resource which should be preserved through sound planning and management. The Wild and Scenic Rivers Act provides this protection for the development of a river management plan which gives the citizens of the area the opportunity to determine the future of the river. The management planning process is designed to foster intergovernmental communication and cooperation and to provide considerable public input and participation in the planning process.

The Great Egg Harbor River is deeply intertwined with the lives of those who live along its shores. Its rich cultural history dates back to the early days of our country. Because of its unique ecosystem and natural features, the United Nations has proclaimed it and the rest of New Jersey's Pinelands National Reserve as part of the International Biosphere Program.

Mr. Chairman, as our natural environment continues to shrink due to increased development, the people of southern New Jersey are becoming increasingly concerned over the future of this unique resource. The Wild and Scenic Rivers Act has been a tremendous success in preserving our Nation's free-flowing waters. I look forward to working with the committee, the Department of the Interior, and the people of the area to make certain that the river receives the protections it deserves.

I am certain that future generations of Americans will look back and thank us for our foresight in taking the necessary steps to preserve this important resource.

Mr. Chairman, I have a delegation from New Jersey today that will be testifying later, led by John Mahoney who is a freeholder, a county commissioner in many counties, who serves as vice chairman of the Atlantic County Board of Freeholders, along with the county administrator, Mr. John Armstrong, Charles Pritchard who is a Hamiliton Township committeeman, and Elmer Ripley, who is with the Atlantic County Parks and Recreation Commission.

I might say in closing that we have experienced a tremendous amount of development in the last few years because of the tremendous growth that has taken place in the Greater Atlantic City area. A few years ago Congress had the foresight to set aside much of the land area in my region for open space. It is a unique ecosystem with sandy soil, pure water, beautiful streams, and it is so very important for us to move ahead with this additional protection for this great river called the Great Egg Harbor River.

I thank the chairman.

Senator **Wallop**. Thank you, Congressman Hughes.

Your colleague, Senator Bradley, I would imagine has a remark to make on this at this time.

STATEMENT OF HON. BILL BRADLEY, A U.S. SENATOR FROM THE STATE OF NEW JERSEY, ON S. 2287

Senator **Bradley**. Thank you, Mr. Chairman.

Let me thank Congressman Hughes for his testimony and I think through his testimony we were able to see that the area that he is describing is really a unique ecosystem. As he pointed out, it is very near the Pinelands Reserve. The headwaters, though, are not in the Pinelands Reserve.

I think the study that we are seeking in this legislation will complement the Pinelands Reserve plan which does not cover the headwaters, the outlet, or some of the major tributaries of the Great Egg Harbor River. I think it is essential that these areas of the river which lie outside the jurisdiction of the Pinelands Commission be addressed in Wild and Scenic River study, and I expect the results of the study also would address methods which will not only protect the river but enhance the overall management of this unique system.

As Congressman Hughes said, this is a unique area with over 500 species of wildlife. It is an area of very sandy soil. Yet when canoeists go on the river, they pass remnants of the 17th and 18th century when the area was not a wilderness but was a very live area with gristmills and other kinds of development.

So, Mr. Chairman, I hope that we will be able to move on this particular study because it is terribly important to the whole concept of wilderness in New Jersey, which to some people who have not experienced it, think it impossible. But it is not impossible, thanks to the action of Congress, and the State legislature, and the Pinelands plan initially in which Congressman Hughes played a very major role. I think that this bill is a legitimate and logical extension of that. I am pleased to have introduced the bill in the

Senate and I would look forward to continue to work with him as well as all the local and State officials in the area to try to make sure that we can achieve this result.

I would like to pay special tribute to a man named Mr. Warren Fox, who unfortunately is not well and not able to be with us today, but his idea of including this as a part of the overall Pinelands plan in terms of at least looking at it as a Wild and Scenic River was really very important and instrumental to the whole concept.

So I thank Congressman Hughes for his testimony and I hope the committee will give it careful consideration and that we will be able to get a study.

Senator **Wallop**. Bill, thank you.

Given the proximity of it to Washington, perhaps the Senator from New Jersey might arrange a field trip.

Senator **Bradley**. It would be my pleasure to arrange a field trip. As a matter of fact, to show you the diversity of New Jersey, we might canoe the Great Egg Harbor River to Atlantic City and then you can take your chances there. [Laughter.]

Mr. **Hughes**. Your chances would be better on the river, Mr. Chairman.

Senator **Wallop**. Of that I am absolutely positive.

Thank you Congressman Hughes and Senator Bradley.

Senator **Wallop**. Senator Proxmire.

STATEMENT OF HON. WILLIAM PROXMIRE, A U.S. SENATOR FROM THE STATE OF WISCONSIN, ON S. 1019 AND H.R. 2182

Senator **Proxmire**. Thank you very much, Mr. Chairman. I will be brief.

I am delighted to appear before you to testify in support of S. 1019 and H.R. 2182. These are bills which add Long Island to the Apostle Island Lakeshore in the northernmost part of Wisconsin.

Senator Kasten has spoken earlier on this, I understand. He cosponsored the bill in the Senate, and Congress Obey introduced it in the House of Representatives. It was cosponsored there by Congressmen Aspin, Kastenmeier, Kleczka, Moody, Petri, and Sensenbrenner, so you can see it has overwhelming support by our congressional delegation. It passed the House December 16, 1985.

The two bills, the House and the Senate bill, were identical when introduced, but the House Interior Committee made a few improvements in H.R. 2182 before passage. I support these changes which further improve the bill's protection of the habitat of the piping plover, an endangered bird species.

Mr. Chairman, Long Island is an approximately 2½-mile long sandspit which was attached to the mainland of Chequamegon Point until the early 1800's.

The Federal Government owns over one-half of the island and manages it through the Bureau of Land Management, except for two lighthouses under the jurisdiction of the Coast Guard.

The island provides habitat for 27 species of shore birds including two species endangered in Wisconsin, one of which, the piping plover, is also on the national endangered species list. The island serves as a nesting habitat, shore bird migration route, and is vital to the health and well-being of the Kakagon Slough, a national natural landmark.

Long Island includes privately owned properties of 67 and 37 acres in addition to 38 acres owned by Ashland County. The Congressional Budget Office estimates acquisition costs, including administration, at about $240,000. That is such a small amount, $240,000, that it is almost beneath the dignity of the Congress. That is all this would cost.

Long Island was listed for inclusion in a proposed lakeshore by the Department of the Interior over 20 years ago and was included when Senator Nelson, who is here to testify this morning, I understand, introduced the original Apostle Island National Lakeshore bill in 1970.

At that time Long Island was included in a management unit with lands owned by two bands of Lake Superior Chippewa Indians. The Bad River Band's Reservation is just south of the area covered by S. 1019 and H.R. 2182. When the Indian lands were dropped from the lakeshore because of an oversight, Long Island was dropped as well.

S. 1019 and H.R. 2182 reversed this oversight and complete the lakeshore by including this one remaining logical component of the park.

Mr. Chairman, this bill enjoys the support of the following groups: Sierra Club; National Audubon Society; the Nature Conservancy; the Wilderness Society; the State of Wisconsin; city of Washburn, WI; Ashland County; the Wisconsin Coastal Zone Management Council; Wisconsin Scientific Preservation Council; Sigurd Olson Institute at Northland College; and the Ashland Daily Press.

Why do all of these groups want Long Island as part of the Apostles? The answer is simple. It deserves and needs the designation.

Long Island and its surrounding waters contain historic shipwrecks and lighthouses, sandy beaches, and ecologically important resources, especially in the so-called sand cut area. The island is just 15 minutes by boat from either the Washburn Marina or proposed Ashland Marina.

Unfortunately, despite these riches, the area lacks both resource management and resource protection. The Bureau of Land Management lands suffer from vandalism, litter, and inappropriate use of off-road vehicles. Only transfer of management to the National Lakeshore can ensure that these precious resources get the protection they deserve.

Mr. Chairman, Long Island is the only barrier island in the Apostle Island chain. Unlike the others, it is sandy and unforested. It is just these conditions which make it a prime shore bird habitat. These same features make it extremely fragile and susceptible to harm by man. Its unique ecology and history complement the existing system and enrich the already exciting Apostle Island experience.

It also is a habitat, I understand, for the common tern, and I figure that one good turn deserves another. And I hope that this committee will provide that.

Mr. Chairman, I urge the committee to include it in the Apostle Island National Lakeshore.

Senator WALLOP. Thank you, Senator Proxmire.

Senator Hatfield.

Senator HATFIELD. Senator, you are aware that the agency does not support this?

Senator PROXMIRE. Yes; yes, indeed I am.

Senator HATFIELD. They are the body of experts that we rely upon, sort of like the peer review group in academic grants, and so you would not suggest, then, we go around the peer review group, namely the agency, in this situation?

Senator PROXMIRE. I certainly would not. Absolutely not. As you know, I am a strong champion of professional expert determination, instead of having the Congress take it out of the hands of the experts. That is why I took the position that you are very familiar I have recently taken on the research at universities which is supported by the administration and by the Defense Department.

In this case, the only objection is the cost. That is why I stressed—$240,000. There is no objection in any other area so far as I know.

Senator HATFIELD. But the peer group still does not support it.

Senator PROXMIRE. I would not so call the Office of Management and Budget a peer group in any sense at all. [Laughter.]

Senator HATFIELD. No, no, no; I would not call them a peer group either except for the fact they are the body of authority here that they are coming here today on behalf not of the OMB, but the National Park Service, the Department of the Interior. These are the experts that have said we should not approve this.

Senator PROXMIRE. I just want to say that as far as peer, they are analogous to the body of experts in academia who are passing on the request for spending money in other areas. And this is the body of experts who are now suggesting a recommendation on the passing of a legislative proposal here that will cost money.

Senator Hatfield, I would tell you that as far as I am concerned, the peer groups are the Sierra Club, the National Audubon Society, the Nature Conservancy, the Wilderness Society.

These are the groups, the expert groups that really understand the problem that is at stake here. The only—as I say the only reason that OMB is opposes this is they oppose all additions automatically, and this has a tiny, almost insignificant—I am sure that some Members of Congress could write a check to take care of it—$240,000.

Senator HATFIELD. Senator Proxmire, you are being selective now about who you suggest as being peers. Those who agree with you are the peers. This is not the situation. In the academic, those people are acting on behalf of a designated agency of Government.

Sierra Club and these volunteer groups, as important a they are, are not officially related to the process of appropriations and authorization. They are testifying on behalf of their constituencies which have viewpoints, but this is official agency of Government that acts as a body of experts, as counselors to this committee.

You know, you are in the difficult situation where really you cannot support this project based upon your philosophy. But I am going to support it because I can, and so I will do your work for you on this committee.

Senator **Proxmire**. Senator Hatfield, I love you. I think that is a very logical basis for support. Even though you are wrong and I am right, I strongly welcome your support. Thank you very much.

Incidentally, I just wanted to say I was delighted I was here when Congressman Hughes testified, because, you know, New Jersey is the most intensely populated State in the Union. I do not think many people realize that it has this marvelous wilderness area, and it does have. It is amazing and I hope I have a chance on the floor to support that.

Senator **Wallop**. Thank you.

Senator Moynihan.

STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM THE STATE OF NEW YORK, ON S. 2483

Senator **Moynihan**. Thank you, Mr. Chairman, gentlemen.

I have the straightforward and not disagreeable task of coming before this honorable and frequently active committee to ask that you do not do something, or rather that you leave things as they are because they are working well. And this is with regard to the Fire Island National Seashore.

As many of you will know, Fire Island is one of the literal strands on the eastern coast of Long Island. They stretch from Coney Island on the west, out to the Hamptons on the east.

In 1964, Mr. Chairman, the Fire Island National Seashore Act was adopted and it created a somewhat unique arrangement in that a national park was established which included a number of incorporated villages. In the ensuing two decades and more, the National Park Service and the Department of the Interior have worked in great harmony with these incorporated villages. They are fully in accord with what arrangements ought to be made, what improvements, what changes, what things ought not to be changed, and so forth.

In the interval, the State of New York has adopted a general piece of legislation which has to do with the location of public and private construction, and facilities, and zoning ordinances, and so forth throughout the State of New York.

Senator D'Amato and I have introduced before you a bill, S. 2483, which simply says that whatever the State wishes to do elsewhere, the existing arrangements in the Fire Island National Park be maintained. They are working fine. It is a nice example of a Federal department working directly with a local government. These are energetic local governments. They are attentive to a degree that might surprise many. You know, the precise details of the island by the square foot—it is understood and measured and counted and preserved.

I will be happy to answer questions, but may I ask to put in the record, Mr. Chairman, a letter to you, sir, from Thomas J. Schwartz, the mayor of the incorporated village of Ocean Beach. Mr. Schwartz is a distinguished New York attorney and a person of great repute in the city of New York and obviously also in the village of Ocean Beach where he is mayor and one of five trustees.

Also, the assembly of New York, through Mr. Hardenburg and Mr. Bianci, members of the assembly, and Mr. Punzo, a member of the senate, write in support of this legislation.

Senator **Wallop**. Senator Moynihan, thank you. Your colleague, Senator D'Amato has a statement for the record, as does Representative Downey.

[The statements and letters follow:]

STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN ON THE FIRE ISLAND SEASHORE ACT AMENDMENTS OF 1986

Mr. Chairman, I am here today to speak about S. 2483, an amendment to the Fire Island National Seashore legislation enacted into law twenty-two years ago. This bill is identicle to a bill introduced in the House by Representatives Thomas Downey and William Carney, within whose districts the Seashore lies.

This bill is very small and very simple, but it is very important to the residents and homeowners of Fire Island. Fire Island National Seashore, though a federal enclave, incorporates several towns and a fair amount of private property. As a protected seashore, the zoning regulations of the towns must conform with those set by the Secretary of the Interior, given to protect federal resources. Following the lead of the Congress in enacting the Coastal Zone Management Act of 1972, New York enacted its own coastal management act in 1981. Since that time the residents of Fire Island have worried about conforming with duplicative and sometimes contradictory coastal zoning regulations set by the State and Federal governments. This arrangement is unfair and overly burdensome to those residents and must be changed.

The Congress made clear its intent that regulation within the Seashore remain the joint activity of the Federal Government and the towns in the last round of Fire Island amendments two years ago. We noted the intent of the Congress in the House Committee Report to the Fire Island Seashore amendments of 1984.

Unfortunately, we did not write the intent into the amendment itself in the last round. We must do so now.

If this amendment is not adopted, homeowners on Fire Island Seashore will be subject to two different and potentially conflicting sets of regulations of the state and federal governments. This bill does not preclude state involvement with regulation of private property altogether, rather, it merely affirms that in the case of conflicting regulations, those developed through the Federal-town government mechanism will prevail.

In again tightening the Fire Island National Seashore Act of 1964, this bill will retain an equitable means of protecting both the rights of private property owners, and the public resources of the Seashore.

Thank you for your time today, Mr. Chairman.

INCORPORATED VILLAGE OF OCEAN BEACH

BOX 457
OCEAN BEACH, N.Y. 11770-0457
TEL (516) 583-5940

BOARD OF TRUSTEES

THOMAS J. SCHWARZ, Mayor
CARL A. BINDER — *Trustees*
BARBARA BRUNNER — *Trustees*
MARVIN FRIEDMAN — *Trustees*
JOHN N. LARDNER — *Trustees*

NANCY J. BALAREZO, Clerk and Treasurer
LOUIS WITKIN, Chairman, Planning Board
HARRY LEVINE, Chairman, Zoning Board of Appeals

June 11, 1986

Senator Malcolm Wallop
Senate Energy and National
Resources Committee
Chairman, Subcommittee of
Public Lands and Reserved Water
SR-206
Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the Incorporated Village of Ocean Beach, I support the enactment of S 2483. The zoning ordinances of the Towns and Villages within the Fire Island National Seashore govern land use within the Seashore pursuant to the General Management Plan. These ordinances have been carefully tailored to meet the particular needs of Fire Island. The location of public and private construction and facilities within the Seashore and the right to rebuild in the event of disaster have been thought through with public comment at many public hearings. The General Management Plan and zoning ordinances which are now approved by the Secretary of the Interior are the product of that deliberate process.

State laws intended for general application throughout the State which dictate land use interfere with the cooperative relationship between the villages and towns and the federal government. What was said in the report to HR 3697 with respect to "entrusting the Fire Island National Seashore to the joint regulation of the Federal Government and the Towns, rather than to add an intervening level of State regulation in this federal enclave," is consistent with the legislative history of the Fire Island National Seashore Act of 1964 and fully supported by the population within the Seashore. I therefore support the enactment of S 2483 for the above reasons and as necessary to carry out the legislative intention in 1964.

Very truly yours,

Thomas J. Schwarz

XEROX TELECOPIER 295 ; 6-19-86; 4:53 PM; FM-6 → 2022249293 ; # 1

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

I. WILLIAM BIANCHI, JR.
Assemblyman 3rd District

75 Orchard Road
East Patchogue, L.I., N.Y. 11772
(516) 654-0414

Room 638
Legislative Office Building
Albany, New York 12248
(518) 455-4901

CHAIRMAN
Majority Program Committee

COMMITTEES
Rules
Ways and Means
Environmental Conservation
Transportation
Corporations, Commissions
and Authorities

CHAIRMAN
Sub-Committee on Marine Resources

June 11, 1986

Senator Daniel P. Moynihan
464 Russell Senate Office Building
Washington, D.C. 20510

RE: S.2483
H.R.4864

Dear Senator Moynihan:

As members of the New York Legislature, we wish to express our support for S.2483 and the companion measure H.R.4864. As State Legislators representing Fire Island, we urge Congress to pass your legislation.

We understand that should your legislation become law, it will reaffirm that the development within the Fire Island National Seashore will continue to be controlled by the Federal-local mechanism provided by the Seashore Act as amended in 1984.

Although the State of New York is actively pursuing the protection of its "coastal zone", we feel confident that those efforts can be better focused elsewhere leaving the protection of Fire Island to the mechanism established by the Congress.

We hope you will convey our support to your colleagues as they consider your legislation.

Sincerely,

Paul Harenberg
Paul Harenberg
Member of Assembly

I W Bianchi Jr
I. William Bianchi, Jr.
Member of Assembly

Caesar Trunzo
Caesar Trunzo
Member of Senate

cc: Senator Alfonse D'Amato

STATEMENT OF SENATOR ALFONSE M. D'AMATO
ON LEGISLATION TO AMEND
FIRE ISLAND NATIONAL SEASHORE ACT
BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

June 20, 1986

Mr. Chairman, I am pleased to testify today in support of legislation to amend the Fire Island National Seashore Act (P.L. 88-587). The bill we are discussing today is identical to legislation being proposed in the House of Representatives by Congressmen Bill Carney and Tom Downey, whose districts include the area covered by this bill.

This legislation is designed to reaffirm Congress' intent when the Fire Island National Seashore Act was first passed. Specifically, we are reaffirming that the regulation of private property within the Seashore remain a joint activity between the Federal government and the local government, rather than to allow an intervening level of State regulation.

This legislation is needed so that homeowners in the area will not be subject to two different and potentially conflicting sets of policies and regulations. The regulatory mechanism combines the zoning authority of the towns to protect the health, welfare, and safety of individuals with the Secretary of the Interior'. responsibility to protect the park resources and the environment. It is important to note that this bill does not preclude State involvement with regard to regulation of property within the Seashore. It merely affirms that, in the case of conflicting regulations, those developed through the Federal-town government mechanism will prevail.

Mr. Chairman, I believe this legislation represents an equitable means of protecting both the rights of private property owners and the public resources of the Seashore. I commend you for holding these hearings today, and urge swift passage of this legislation.

Thank you, Mr. Chairman.

THOMAS J. DOWNEY
7th District, New York

2232 Rayburn House Office Building
Telephone: (202) 225-3335

District Office:
4 Udall Road
West Islip, NY 11795
Telephone: (516) 661-8777

Congress of the United States
House of Representatives
Washington, DC 20515

COMMITTEE ON
WAYS AND MEANS
SUBCOMMITTEE ON TRADE
COMMITTEE ON THE BUDGET
SELECT COMMITTEE ON AGING

June 19, 1986

Honorable Malcolm Wallop
Chairman
Subcommittee on Public Lands, Reserved Water
and Resource Conservation
SD-308
Washington, D.C. 20515

Dear Senator Wallop:

I appreciate your expeditious action on S.2483, introduced by Senators Moynihan and D'Amato. This bill is identical to H.R. 4864, which I introduced with Representatives William Carney, Robert Mrazek and Stephen Solarz.

Unfortunately, I am unable to testify at tommorow's hearing on S.2483. However, I respectfully request that the enclosed remarks be included in the hearing record.

Thank you again for your efforts on behalf of Fire Island.

Sincerely,

Thom J. Downey

THOMAS J. DOWNEY
Member of Congress

enclosure

TJD/dh

STATEMENT OF CONGRESSMAN THOMAS J. DOWNEY
BEFORE
SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

June 20, 1986

Mr. Chairman, I want to thank you for holding this hearing today on S.2483, legislation that is identical to a bill I introduced in the House with my colleagues, Bill Carney, Bob Mrazek and Stephen Solarz. You have shown a continuing and strong interest in the Fire Island National Seashore and I am grateful to you for your past efforts on behalf of the Seashore.

As you know from your prior involvement with Fire Island, it is one of a series of barrier beaches that parallel the south shore of Long Island. It is an island of many faces. It is a place of great natural beauty with several unique beach forests and wilderness areas yet it also supports nearly 20 communities. Finally, Fire Island provides protection to Long Island and its marine resources from the Atlantic Ocean and the many storms and hurricanes that strike northeast coastal areas such as Long Island. The preservation of this resource is critical to those who live on Fire Island, enjoy its beaches and lands, and the millions of residents who reside on the south shore of Long Island.

Congress created the Seashore in 1964 to ensure that these three faces of Fire Island would not be disfigured by a New York State proposal to build a highway along the length of the island. If the highway had been built it would have destroyed the Fire Island communities and upset the fragile ecology of the island.

Like Cape Cod National Seashore, the Fire Island National Seashore was established around existing communities which were incorporated within the external park boundary. Under this "Cape

Cod" formula, public park resources are protected from adverse development on adjacent private property and the continuity of the communities within the park is maintained.

With your help, Congress in 1984 enacted legislation that strengthened Federal authority to protect the Seashore. The 1984 act was aimed at limiting development occurring on Fire Island that threatened the welfare and future of the island.

The legislation before you today comes in response to actions that New York State is taking that preempt the trust relationship for Fire Island between the Federal government and local Fire Island towns. In response to the Coastal Zone Management Act of 1972, the New York State Legislature enacted the Coastal Erosion Hazards Act of 1981 to preserve New York's coastal areas including Fire Island. Under the state act, New York has begun identifying erosion hazard zones and developing specific restrictions on the use of private property in those zones. These state regulations conflict with the Federal regulations for the Seashore.

However, the Coastal Zone Management Act, the basis for the New York State Act, was not intended to include Federal lands in state coastal zones. The Act permits a state to regulate and protect its coastal zone but excludes land that is held in trust by the Federal government.

A potential conflict between the State and Federal standards for Fire Island is looming. The House Committee on Interior and Insular Affairs made reference to this in its report on the 1984 legislation. The report notes that the existing regulatory structure involving the Federal government and local towns is preferable to changing that structure to include the state.

New York, however, persists in proceeding with the development of its own regulations which apply to areas already regulated by the Federal government. Homeowners on Fire Island are faced with the uncertainty and inequity of dual and conflicting regulation.

The Fire Island National Seashore Act and its amendments have been designed to achieve the same goals as the state act. Congress has recognized the importance of Fire Island to the mainland. This Subcommittee has in its past action regarding Fire Island demonstrated its understanding that reckless development presents nearly as great a danger to Fire Island and Long Island as natural disaster does. That is why the 1984 amendment was developed. It was clear that the original Fire Island Act was not adequately controlling illegal development. So we strengthened the enforcement powers of the Federal government. The intent of Congress has been to preserve Fire Island communities while ensuring that Fire Island itself is not harmed from haphazard development.

It is not often that I find myself opposing the policies of my own state and I want to emphasize that this bill is not intended to preclude New York from carrying out its responsibilities on Fire Island. We need to give the 1984 amendments a chance to work. S.2483 affirms that in the case of conflicting regulations, those developed through the Federal-town government mechanism, the Cape Cod formula, will prevail. This bill will preserve the natural beauty of Fire Island, the communities on the beach and the island that is so important to the protection of Long Island's south shore.

Senator **Wallop**. Do any of my colleagues have a question? [No response.]

Senator **Wallop**. Thank you, sir.

Senator **Moynihan**. I thank you, sir.

Senator **Wallop**. The only other colleague who seeks to testify is Senator Matsunaga. He is not here and I will ask the administration's witnesses to come forward now. Should he come in, I will ask you if you could suspend long enough so that we could hear from Senator Matsunaga.

Chief Peterson of the Forest Service and Deputy Director Denis Galvin of the National Park Service.

I would ask you to avoid S. 2351 for the time when Senator Evans is going to chair the hearing.

Max, if you would proceed with 2266 and 2466 and 2532.

Mr. **Peterson**. Might it be best if I did the Olympic Park proposal and let Mr. Galvin do it at the same time?

Senator **Wallop**. No; we would like to have S. 2266. I am waiting on S. 2351 until around 11 at which time Senator Evans has agreed to Chair the hearing.

Senator **Bradley**. Mr. Chairman.

Senator **Wallop**. Senator Bradley.

Senator **Bradley**. Would it be possible for me to submit some questions for the record because I have to get to the floor and I would like to ask them.

Senator **Wallop**. I understand that. Members of the committee may submit questions and I will ask each of you that you be prepared to respond to those within the 2-week period.

In light of the progress, I think the best thing to do is to hear you on S. 2266 and we will go to that panel, Denis, and then we will come back on the next.

STATEMENT OF HON. R. MAX PETERSON, CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ON S. 2266

Mr. **Peterson**. Thank you, Mr. Chairman.

You have my statement. Maybe I could brief it in the interest of time.

Senator **Wallop**. By all means.

Mr. **Peterson**. As you know, Mr. Chairman, the bill before you does two things. It would delete the 80-acre limitation that is in present law for a term permit, and it would extend the term from a maximum of 30 years to 55 years.

We fully support the proposal to enlarge the acreage, delete the 80-acre limitation. We have serious concerns about the proposal to go to 55 years. And as I indicated on the House side, if you go back 55 years from now, and go to 1931, there was not a single ski area on any national forest. In fact, the 50th anniversary of Sun Valley was 2 years ago, and it is the oldest ski area in the United States.

So we have no precedent of any permit that has been issued that long for a ski area. If you look at what has actually happened in ski areas, generally the permit lasts in fact 10 or 15 years, because during that length of time, major new development needs to be done and we in fact issue a new permit. So we have no precedent indicating that there is a need for that length of time.

One of the questions that has been raised is that there is a need for long-term financing. We agree with that, but there has been over $1 billion invested on national forest land in ski areas; in fact, over $100 million in the last year alone in ski areas under the present permits.

So we have received no information that indicates that there is financing longer than 30 years. We have no specific information that indicates longer than 30 years are needed to secure financing.

And the other problem that I see is that we only have, as far as I know, two examples in Government where 50-year permits are permitted. One is under the Federal Power Act for major hydroelectric development. They are allowed for 50 years.

There is also general authority that says that for some things you can—I believe in TVA—that you can issue up to 50 years, but in fact they only issue 20- to 30-year permits.

There is also the fact that during a 50-year period, there is a need to change permits terms to keep them up to date with changing times. And you cannot make changes in permits, even if the permittee wanted to make them and the Forest Service was in agreement, without encountering objections from all kinds of people that you are changing a contract to the disadvantage of the Government.

So we have found that 50-year permits have real difficulties in terms of rigidity.

[The prepared statement of Mr. Peterson on S. 2266 follows:]

STATEMENT OF
R. MAX PETERSON, CHIEF
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands,
Reserved Water and Resource Conservation
Committee on Energy and Natural Resources
United States Senate

On S. 2266, a bill to establish a ski area
permit system on national forest lands established
from the public domain, and for other purposes

June 20, 1986

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am pleased to have the opportunity to present the Department of Agriculture's views on S. 2266, a bill to provide for changes in the permitting system for ski areas on National Forest System lands.

The Department of Agriculture recommends that S. 2266 be enacted only if amended. We support the single permit system but oppose the 55-year term.

S. 2266 would establish new authority for issuance of all commercial alpine and nordic skiing area and facility special use permits on National Forest System lands established from the public domain. It would extend our present authority for the term of a permit from a maximum of 30 years to ordinarily 55 years "unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation." The proposal would also allow ski area permits to encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee's needs for ski operations and ancillary facilities. Currently there is an 80-acre maximum acreage for term occupancy permits which authorize major recreation development such as ski areas on the National Forests. There are two primary acts which authorize the Secretary of Agriculture to issue permits and regulate occupancy and use for ski areas or operations on National Forest System lands--the Act of June 4, 1897, and the Act of March 4, 1915. Under the 1915 Act, occupancy permits can be issued for a maximum of a 30-year term and for a maximum of 80 acres for facilities and structures. In order to accommodate ski area developments, one occupancy permit under the 1915 authority is issued to cover high investment installations such as lodges, lift installations, restaurants, and hotels. These are usually issued with 20-year terms, but some have been issued with 30-year terms. A second permit, an annual permit, is issued to cover the remaining areas of the appurtenant ski area development on National Forest System lands such as for ski slopes and parking lots which are areas involving less investment. The second permit is issued under the organic authority provided by the Act of June 4, 1897, to administer the National Forests. Essentially, a permittee has a dual permit to cover the overall skiing operation.

Outdoor recreation is a major activity on National Forest System lands. We cooperate with the private sector to provide needed recreation facilities and services. Since 1935, the Forest Service and private industry have been cooperating to provide opportunities for skiing to recreationists. Currently, there are 170 ski areas on the National Forests. In the Western United States, the majority of ski areas are totally or partially on National Forest System lands. In addition, many of the major areas in the East are also on the National Forests. These areas involve over $1 billion of privately invested capital that annually returns approximately $9 million in fees to the Treasury. Often the image of winter sports developments in this country is one of multimillion dollar major destination resorts. However, of our 170 alpine ski resorts, less than one in five have investments exceeding $10 million. Nearly half have investments exceeding $1 million, and there are some with investments lower than $100,000. Many permits for nordic ski activities authorize activities with only minimal investments. There is a wide range of investment in skiing facilities and improvements currently under permit within the National Forests.

We support the provision in S. 2266 that provides authority to the Secretary to issue a single permit for ski slopes, parking lots, and other lands and buildings covering an acreage that he determines sufficient and appropriate to accommodate the permittee's overall ski operation and facilities. This one permit system would be an efficient way of doing business for both the Government and the permittee.

We have concerns with the 55-year term. A viable and actively expanding skiing industry operating on National Forest System lands has developed under the current dual permit system. Within the past year in Colorado, $125 million of private capital was invested at existing ski areas which included 19 new lift installations. We have a continuing and active interest in new areas. We presently have 13 applications for new ski area developments under current permitting proceedures and policy. We recognize that the dual permit system is cumbersome, but we have no evidence that the 30-year tenure has been or can be expected to be a deterrent to ski area development. The longer tenure provided by the bill would hinder the flexibility in management that the Agency must retain in order to accomodate changing needs and demands of the using public.

Our primary concern is to provide discretion to the Secretary to issue permits for the term he determines is appropriate for each individual situation because of the varying nature of the size and investment of skiing operations on National Forest System lands. We believe that language directing the Secretary to issue a permit "ordinarily" for any specific tenure is not necessary or desirable. We recommend that subsection 3(b)(1) be changed to authorize the Secretary to issue permits for the term deemed necessary, but not to exceed 30 years.

We also recommend that the Secretary be given the discretion to define the term "ski area" in connection with promulgation of regulations. We believe such discretion is necessary because S. 2266 could be interpreted to require that any skiing activity authorized under permit be issued under the new authority. This could include occupancy permits for resorts on National Forest system lands that are primarily for summer activities but incidentally provide some winter skiing activities. We believe that these types of permits should continue to be issued under existing occupancy permit authorities and that to do so discretionary authority to the Secretary is necessary in S. 2266.

We recommend that subsection 3(c) be changed from the requirement that all permits be converted under this authority within 2 years. Instead, we believe that the magnitude of the job and legal implications require some flexibility. It would be our intent to convert permits to the new system within 3 years if the existing permit is in good standing and if the permittee agrees to the conversion prior to the termination date of the existing permit. There is a potential issue of a taking if the bill is enacted and we are required to convert all existing permits within a specific timeframe. Also, where major changes are planned in the near future at some ski areas, it would make sense to wait to convert the permits under the new authorization until any approved changes could be included. This would eliminate having to reissue the permit twice. The conversion would be an administrative action on an existing operation, in most cases, and we would not anticipate that additional procedureal requirements involving economic, social and environmental assessments would be required. These, of course, would be done if there is a proposed change of facilities or expansion.

Finally, we recommend that the permit system apply to all National Forest System lands, not only those established from the public domain. We have ski area permits on acquired lands in the East as well as those in the West established from the public domain.

We have a long and successful working relationship with the skiing industry. Together we have been successful in providing the public with skiing opportunities across the Nation. The success, safety, and advances in environmental concerns are due to the cooperation and the close working relationships between the Forest Service and the skiing industry. We acknowledge that the industry may be experiencing financing problems associated with our cumbersome dual permit system and that a change to a single permit is warranted. We can support enactment of S. 2266 if amended as I have suggested.

This concludes my prepared comments. I would be happy to answer any questions the Committee might have.

Senator WALLOP. Max, there is something a little out of whack with that. There are 50-year timber contracts. The other thing that bothers me is that is just an expression of the inadequacy of the contract writing, because you can write a contract that accommodates the ability to renegotiate it. It is done in the private world all the time.

Mr. PETERSON. OK. Let me point out that it is not just the Forest Service and the permittee that are involved in this. You get the General Accounting Office. You get the Office of Inspector General and all kinds of people that are looking——

Senator WALLOP. Yes. But if that is the criteria, we are better off doing them in 2 or 3 years.

My problem is this: that if the absence of precedent is the criteria by which we make the decision as to whether to extend these terms, we will never do it because we can never establish the precendent.

Mr. PETERSON. No, no. What I am saying is—let's take the 50-year contracts that we have. We have two both in Alaska. I think both the holders of those permits and ourselves wish we did not have 56-year contracts because they bind both parties to lots of things that we do not foresee.

Senator WALLOP. That is sort of beside the point. This does not seem possible that knowing that level of problem, that you cannot still write a 50-year contract that agrees that specific agreements among the parties can be amended under certain circumstances and with certain stipulations. You know, the private world knows how to do these things. Maybe it is time Government learned.

Mr. PETERSON. Well, we have looked at the private real estate market, and there are virtually no leases that run longer than about 30 years. In fact, most of them are 20 years.

Senator WALLOP. Oh, there are 100-year leases all over the world and in this country.

Senator EVANS. Mr. Chairman, I might just say that virtually all of Waikiki Beach and the hotels there are built on ground leased land for 99-year leases.

Mr. PETERSON. That is in the State of Hawaii, which almost amounts to private ownership. That is a very unique situation. I am talking about the private lease world.

Senator EVANS. I do not think it is unique at all. I agree with the chairman.

Senator WALLOP. It is anything but unique.

Mr. PETERSON. Well, it is the only place in the United States where that is done.

Senator WALLOP. Oh, I know a number of 99-year leases.

Mr. PETERSON. In the private sector?

Senator WALLOP. Of course. You live near one.

Mr. PETERSON. Where?

Senator WALLOP. River Place Mall in Arlington.

Mr. PETERSON. That is not 99 years.

Senator WALLOP. It is a 99-year lease.

Mr. PETERSON. Not 99 years. I do not believe so. I don't know that.

Senator WALLOP. I think it is.

Mr. PETERSON. Anyway, let me point out the basic point that I was making earlier, Mr. Chairman, that I think has been missed, is that you do not have a ski area that remains static for 50 years. You are going to make major new developments during that term, and our practice in the past when those new developments and new investments are made is to simply issue a new permit that extends for another 30 years.

Senator WALLOP. Had that been the practice, I don't think we would have had the desire from the recreational ski community to produce this legislation. There has to be a reason why they would prefer it. If everything was going as simply as you just stated, there would not have been an impetus.

Mr. PETERSON. The basic reason I think you have the legislation before you relates to the 80-acre limitation, because there has long been concern about the dual permit system. In fact, the dual permit system is not a very good system either for us or the permittee because we have one permit that is a term permit for up to 30 years, and then we have annual permits for everything else.

For a long time we were concerned about potential legal challenges to that. We got by the legal challenges. So the real concern is over the 80 acres. And we are in agreement that we need to expand the acreage.

Senator WALLOP. Senator Evans.

Senator EVANS. Mr. Chairman, this is something that I have had some personal experience in for the last 20 years and I would say at the outset that at Crystal Mountain in the State of Washington where there is Forest Service management, there has been the development of what is probably the biggest ski area in and around the Puget Sound Basin in terms of both the ski facilities as well as the ground facilities.

There are a limited—and I emphasize limited—number of condominium-type units built there to try to build up some overnight accommodations for the last 20 years. In fact, a couple of reincarnations ago when I was still a practicing engineer, we did some of the structural engineering up there and we own one of the small condominium units.

It all seems to me, however, that the Forest Service has a good background and remarkable strengths in supervising the ski slopes themselves and managing the lifts and their safety along with the State, but that it is not the Forest Service's business, nor has it had the kind of experience, nor probably should it really be in the business of managing the base facilities or having that relationship which has not been a very happy one, mostly because of the reluctance of the Forest Service to allow the kind of overnight facilities under shared ownership are the only way for most of these areas to build up.

They are limited in terms of their seasons. You cannot find a hotel or a chain or an investor who will go in there and invest purely on the basis of a hotel-like facility. And yet the Forest Service has been exceedingly unwilling to adopt the concept of the kind of condominium ownership with opportunities or even requirement for some share of the rights of that ownership to be open to the public.

What is your view and how would you react to situations where the base facility were to be traded off if you were to trade, for instance, in our own circumstance in the State of Washington, the ownership of base facilities now by the Forest Service into ownership by the State of Washington which has a considerably different view and, I might add, while I was Governor, expanded the lease terms and times precisely to 55 years.

So the State of Washington has no trouble and difficulty with the 55-year lease term. We adopted that some years ago.

Mr. PETERSON. Well, there are a lot of questions there. Let me try to sort them out.

In many cases base facilities are privately owned. We have done some land exchanges——

Senator EVANS. Oh, and I think that that is where it works very well, when they are privately owned, or at least not owned by the Federal Government.

Mr. PETERSON. But let me point out that a ski area causes a very large impact on an area. And one of the concerns that you will have before the committee, I think, is the question of when the Forest Service in fact is a part of a ski area being developed, what responsibility do we have to look at the overall development being done in a way that is not detrimental to all of the things surrounding it.

That is one of the concerns about the intensity of development you see at ski areas. We have talked to the State of Washington about the possibility of an exchange of land. One of the problems is that these lands are highly valuable, you are talking about land that you can put condominums and hotels on. So it takes a lot of land to trade for.

Senator EVANS. They might be exceptionally valuable if there were different kinds of management, but you manage it in a way to keep down the kind of facilities built there.

Mr. PETERSON. No. We have no objections to providing destination facilities. I think the problem we have had is that we have the idea that if there are going to be overnight facilities, they should be available to the public.

Senator EVANS. I know you do. And that keeps most of that facility from being built.

Mr. PETERSON. It does not in most areas. Most areas have the developments and they have worked out financing systems to allow that to happen. So if you go and look in Colorado and all kinds of other places, you don't find a problem with that.

Senator EVANS. In a lot of those areas, there is private land at the base.

Mr. PETERSON. Not all of them.

Senator EVANS. Perhaps not all of them, but——

Mr. PETERSON. A lot of them are national forest also. In other words, what I am trying to say is that this is a different problem than we are addressing here. We could allow the kind of development that you are talking about at that ski area.

Senator EVANS. You could, but you don't.

Mr. PETERSON. Well, we are looking at that right now, as you know.

Senator EVANS. You have been looking at it for 20 years.

Mr. PETERSON. No; well, we have been looking at some aspects of it.

Senator EVANS. I have got personal experience with you for 20 years.

Mr. PETERSON. But let me ask you, do you want us to trade that into private ownership so any kind of development could occur there?

Senator EVANS. I am not suggesting private ownership. I think the State of Washington is a pretty good manager and I would sure like to trade out for State of Washington management as an alternative.

Mr. PETERSON. My one experience with having Federal Government, State, and private mixed together is very bad because you have State law, and Federal law and private land. So I think it is either better to exchange out and let the State operate the entire facility or keep it, but not mix it.

We had Squaw Valley in California that was a Federal-State-private area and we ran into the fact that the State laws that applied on insurance and all kinds of things were different, and you mix those on one site and you have got a real mess on your hands.

So I think there needs to be a clear delineation. And we are working with the State of Washington right now on this whole question.

Senator EVANS. Thank you, Mr. Chairman. I think you ought to take a look, if you think that 55 years is unique, you might examine the State of Washington laws as it relates to the Department of Natural Resource and Department of Natural Resource lands.

Mr. PETERSON. We will certainly do that.

Senator WALLOP. Senator Hatfield.

Senator HATFIELD. I have no questions.

Senator WALLOP. I have one—two, really.

One, what is your reaction to the permit term in the House-passed bill?

Mr. PETERSON. That is certainly an improvement and there is some logic, as I agreed on the House side, since it takes several years to bring a ski area on line.

See, we ordinarily now do not start the permit term when we give a planning permit. We issue the term permit at the end of the planning. You could certainly make the case that it would make sense to do it for 40 years and not have that double kind of situation. I think that would be reasonable.

I am concerned about the House-passed language that tends to say that ordinarily they will be for 40 years. Let me point out that of the 170 permits that we have, a lot of them are for very simple facilities. Some of them are just for cross-country skiing, with a very small facility.

So there needs to be an ability for the Secretary to make a judgment on the length of term, and I don't read the House-passed bill as giving the Secretary very much discretion.

Senator WALLOP. What does give him discretion, though?

Mr. PETERSON. Well, it says the permit shall ordinarily be issued for a term of 40 years unless the Secretary determines that the facilities or operations are of a scale or nature as are not likely to require long-term financing or operation, or that there are public policy reasons specific to a particular permit for a shorter term.

So it places the burden—it says to the Secretary issue them for 40 years, unless you can state a whole bunch of reasons for doing it for a lesser period.

Senator WALLOP. I think that finding is not all that difficult.

Mr. PETERSON. It is an improvement, Mr. Chairman.

Senator WALLOP. In your statement, where you say they have concerns about the 55 years, you say: "Within the past year in Colorado, $125 million of private capital was invested at existing ski areas which included 19 new lift installations."

How much of that is base for facility and not——

Mr. PETERSON. Certainly the 19 ski lifts are probably almost entirely on national forest land. I don't know the breakdowns of that, but I would say that a large part of that is on national forest land.

Senator WALLOP. Can you provide it for the record?

Mr. PETERSON. We can try to. I don't know if we have it broken down.

Senator WALLOP. I mean, if you are going to cite it, I think you can provide it, because it is important for us to be able to make the determination.

Mr. PETERSON. I am just saying when you build a ski lift, I don't know whether we can segment how much of that is on private versus public land. We will give you an estimate, though. We will do our best.

Senator WALLOP. The other thing is, I want you to be aware of the—and I hope you are—the Library of Congress report for Congressman Strang. One of the problems that the private world has with the Government world is that the Government world hasn't the foggiest notion what business is all about and yet it thinks it does.

Just in that report, the Library of Congress stated that the current permitting practices, under the current permitting practices lenders, those who would be the ones who provide this capital, may compensate for the lack of collateral value in the Forest Service permit in several ways, including making less money available to the borrower, reducing the term of the loan, or charging higher interest rates.

These are not things which I suspect trouble you, but they do trouble the industry. One of the hopes in all of this is that we would provide a little stability, and I cannot help but think that that does good for you as well as for the industry. Stability and quality is presumably what you seek when somebody is trying to put in installations of this nature.

Mr. PETERSON. No question about it. Let me point out on the House side, where this question was raised, five letters from lending institutions all say that the present term is no problem. There is not a single piece of information that we have seen from lending institutions who are actually in the lending business to the ski areas, that indicate the 30-year permit term is a serious problem.

Maybe you would like to have these for the record.

Senator Wallop. We have a couple that we can put into this record to balance those letters off.

Senator EVANS. Are they actual lenders to ski area operators?

Senator **Wallop**. Yes; the United Bank of Denver.

Mr. **Peterson**. I don't know if they are a ski area lender or not.

Senator **Wallop**. Yes, they are.

Mr. **Peterson**. But anyway, we have invited the ski area people to provide information to indicate that this is a significant problem.

[The letters follow:]

UNITED STATES SENATE
COMMITTEE ON ENERGY & NATURAL RESOURCES
Subcommittee on Public Land and Water

SUBJECT: National Forest Ski Area Permit Act of 1986

ASSERTION: Ski area permits for 55 years enhance an operator's ability to obtain financing to a greater degree than permits for 30 years.

JUSTIFICATION:

1. Financial intermediaries look at capital asset values from several standpoints such as original cost, replacement value, market comparisons and discounted cash flow. Regarding ski area assets and their values, the most pertinent valuation method is discounted cash flow because the value is significantly impacted by the known time limitation of the projected continuous cash flow.. The methodology of discounted net present values used by many lenders indicates a significant benefit to an extended assured flow of cash.

   An example of the impact can be shown by comparing a payment stream of $1 million for 30 years at a 10% discount factor which results in a net present value of $9,426,900 versus a 55 year payment stream equaling $9,947,700. The difference is $520,800 or 5.5% increase in value and therefore lendable value for a creditor.

2. For commercial operations to build real property capital assets on leased land it is necessary to be assured of an adequate lease period to recapture the investment plus earn a normal profit. It is common business practice to enter into 99 year leases for ground on which buildings and other permanent structures will be built and ski areas should be treated similarly.

3. For a short term lender as well as a capital assets lender, the economic viability of a project is a key ingredient in the credit worthiness of any operation. For a ski area to maintain its economic value and its ability to repay loans, it must be able to compete with other recreational alternatives such as beach resorts, golf and tennis resorts, theme parks and overseas travel. Amenities that enhance the ski experience such as on-mountain restaurants, comfort centers and lounges attract more people to a ski area, thus insuring its debt service capacity.

   Having financing available for capital asset projects at ski areas also enhances an operator's ability to get short term working capital loans for off-season operating expenses.

John A. Green
Vice President
United Bank of Denver, N.A.
Denver, Colorado

First Interstate Bank

First Interstate Bank
of Oregon, N. A.
Bend Branch
P.O. Box 1191
Bend, OR 97701
503 388-0511

J. A. Sharkey
Vice President and Manager

April 3, 1986

William A. Healy, President
Mt. Bachelor, Inc.
P. O. Box 1031
Bend, OR 97709

Dear Bill:

We understand there is a pending legislative effort to change the terms of Forest Service permit leases, from the current policy of 30-year maturity to a 55-year maturity program. Some of the support to this effort has been indicated as a change necessary for needed support to lending institutions considering loans.

This simply is not the case at all as it relates to our experiences and past policy decisions regarding our loans to Mt. Bachelor, Inc. Our credit decisions to you over these past many years, the present, and the future, are primarily based on your own management and financial history and is not on the strength of the U. S. Forest Service permit term.

Apparently, we have a case again, of a new fixer trying to repair something that isn't broken!

Sincerely,

J. A. Sharkey
Vice President & Manager

JAS:mf

US BANK

UNITED STATES NATIONAL BANK OF OREGON
A Subsidiary of U.S. Bancorp

JOHN H. RICKMAN
SENIOR VICE PRESIDENT

HEAD OFFICE
309 S. W. SIXTH AVENUE
P. O. BOX 4412, PORTLAND, OREGON 97208

April 17, 1986

Mr. William A. Healy, President
Mt. Bachelor, Inc.
P. O. Box 1031
Bend, OR. 97709

Dear Bill:

Thank you for your information regarding the proposed changes on Forest Service Permits for ski areas. I'm not completely knowledgeable about all of the aspects of Forest Service Permits, but what I can respond to is what the bank is interested in when it looks at a loan request on land owned by the Forest Service. If the request to fund improvements extends beyond the existing permit period, then the bank would have a difficult time approving such a loan. What I would strongly urge is that the Forest Service Permit process be open for renegotiation prior to the expiration of the Permit date to allow the user the flexibility to negotiate a loan or lease over a reasonable length of time and have the renegotiated Permit extend a few years beyond the maturity of the new loan or lease.

Sincerely,

John H. Rickman
Senior Vice President

JHR/ebw

OREGON
BANK
AN ORBANCO COMPANY

April 7, 1986

William Healy, President
Mt. Bachelor Inc.
P. O. Box 1031
Bend, Oregon 07709

Dear Bill:

We are aware that some members of your industry are encouraging changes in the legislation which limits the maturities on permits issued by the U. S. Forest Services. We were not aware that efforts were under way to change the length of the permit from 30 to 55 years. We were of the opinion that changes were being encouraged to allow for longer than one year leases on land utilized for the slopes.

Neither issue concerns us as is evidenced by our loan commitment to you. It is my opinion that the issue is best left alone. Dave has met Arnie Finnochio who is with the Bank of America. He shares the same opinion as we do, and perhaps he is also a source of support for your cause.

If we may be of further service to you, please call.

Sincerely,

M. R. Empey

Michael R. Empey
Senior Vice President

MRE:kr

The Oregon Bank
Business Services Division
1001 S.W. Fifth Avenue
P.O. Box 3066
Portland, Oregon 97208
[illegible]

METLIFE CAPITAL CORPORATION

10900 N.E. 8th St., Suite 1300
Mailing Address C-97550, Bellevue, WA 98009
(206) 451-1726

Metropolitan
Insurance Companies

Vince R. Iaci
Vice President/Manager
Credit Administration

May 5, 1986

Mr. William Healy
President
Mt. Bachelor, Inc.
336 Century Drive
Bend, OR 97709

Re: Equipment Lease (Chairlift & Maintenance Building) between Mt. Bachelor, Inc., as Lessee, and MetLife Capital, Limited Partnership, as Lessor

Dear Mr. Healy:

This is to advise you, and others to whom it may concern, that in analyzing leases similar to the above referenced transaction, MetLife analyzes the creditworthiness of the Lessee from the standpoint of the ability of the Lessee to make lease payments from current revenues. This process includes an analysis of cash flow, earning potential, and other factors related to the operation of the business. The value of Mt. Bachelor's permit with the Forestry Service would not be a material factor in the analysis except to the extent that MetLife is, obviously, interested in Mt. Bachelor's ability to continue operating.

Please let me know if you require any additional information in this regard.

Very truly yours,

Vince Iaci

VI:PG:je

0188Z

LAWRENCE S. BLACK
chairman
director

June 11, 1986

W.A. Healy
President
Mt. Bachelor Inc.
P.O. Box 1031
Bend, Oregon 97709

Dear Mr. Healy:

It is my understanding that Congress is considering changing the forest service permit for a ski area from 30 to 55 years in length. As an investment banker, I would like to go on record as stating that a 30 year permit has been and will continue to be adequate to meet the requirements set forth by the investment industry.

There have been a number of publicly owned ski areas, such as Aspen and Vail and the 30 year permit did not act as an obstacle in any way.

I recommend maintaining the permit as it now stands.

Sincerely,

Lawrence S. Black

Lawrence S. Black
President

Black & Company, Inc   One Southwest Columbia Street · Portland, Oregon 97258

Senator WALLOP. Well, I am going to ask then, if you would, you and Denis to step down, and we will get this panel and then by that time we should be just about right to go on to the next, S. 2351.

Senator EVANS. Mr. Chairman, I am not sure I understood fully Mr. Peterson's answer to your question on the—because I have the same interest—where you were quite specific in the $125 million of private capital in the last year in Colorado at existing ski areas, which included 19 new lift installations.

Do I understand you to say that you couldn't separate out or you didn't know how much of that was for lift facilities in terms of dollars, how much of it was on private land, how much of it was invested on Forest Service base land?

Mr. PETERSON. The information we got from the industry itself of the investment they made, but they don't break it down by private versus public. It is all on Forest Service permits. But we don't separate—for example, a lift may start on private land and maybe 95 percent on national forest land. We have not broken down how much of that——

Senator EVANS. But it is all on Forest Service permits. If it is on Forest Service permits, you don't know whether it is being built as base facility or lift facility, whether it is all on Forest Service land, or not on Forest Service land?

Mr. PETERSON. Oh sure, we know that, but you are talking about a whole lot of areas. You would have to get the information from each area.

Senator WALLOP. But you can understand what we are getting at. If the collateral is based on the base facility, then it is not based on the permit and it is not a particularly valid citation for concern about the 55 years.

Mr. PETERSON. We will give you our best estimate on that. Yes; it just never occurred to me that we needed that kind of breakdown.

Senator WALLOP. Thanks, Max.

Let me call, then, the panel for S. 2266, Mr. William Healy of Mount. Bachelor, Inc., Bend, OR; Mr. David Marsh, Mt. Bachelor, Inc., Bend, OR; Mr. Nick Badami, chairman of the board of the Alpine Meadow Ski Corp. of Tahoe City, CA; Mr. Paul McCollister from my State, chairman of the Jackson Hole Ski Corp. in Teton Village, WY.

Senator HATFIELD. Mr. Chairman, may I say that I am happy this morning to welcome a longtime friend, Bill Healy, who is the president and chief executive officer of the Mount Bachelor ski program facility.

This is one of the top ski facilities in our Pacific Northwest, and I have known over 25 years the activity and the work that he has put into this and the local leadership—it is really a community leadership program that Bill has provided the ignition and the inspiration for.

Mr. Chairman, Mr. David Marsh, who is the executive vice president, will be Bill Healy's voice this morning. I knew Bill when he didn't need a voice, and he really doesn't need one now, except for the fact that he uses Mr. David Marsh for that purpose.

I have a conflict of schedule. I hate to have to do this, but because of your gracious manner I know I can entrust him to you and

Senator Evans for a kindly reception. I am just delighted to welcome you here this morning, Bill.

Mr. **Healy**. Thank you, Senator

Senator **Wallop**. Then, Mr. Marsh. Welcome here, Mr. Healy.

STATEMENT OF WILLIAM A. HEALY, PRESIDENT, MT. BACHELOR, SKI CORP., BEND, OR, ON S. 2266 AS PRESENTED BY DAVID MARSH

Mr. **Marsh**. I am David Marsh and Mr. Healy has requested that I present his statement. His statement reads:

Gentlemen, I would like to thank you for the opportunity to share my perspective on this significant piece of legislation. I am testifying in opposition to S. 2266 in its present form.

My background in ski area management goes back to 1957 when I founded the Mount Bachelor Corp., and developed what has become the Pacific Northwest's No. 1 ski area.

The ski industry, through their national association, has gone on record as being in support of legislation to change the permit for ski areas from a 30-year term to a 55-year term.

The testimony from the ski industry indicates that without the extended term, it makes it difficult to finance capital improvements. This is hogwash.

My opinion is this bill would give the ski industry preferential treatment. I feel that this is irresponsible and unfair as well as unnecessary.

During my 29 years of experience, I have participated in and seen every finance scheme imaginable. These include borrowing, stock sales, warrants, trading stock for services, trading stock for personal guarantees, et cetera.

Let me point out that all of this was accomplished with this imperfect document called the special use permit. It was not until 1972 that it was issued a 30-year permit. I respect the document and the built-in discipline that it contains.

I refer your attention to the supporting evidence that I have supplied. First is a report from the Congressional Research Service, page 6, the second paragraph; second, a letter from the First Interstate Bank of Oregon; third, a letter from the U.S. National Bank of Oregon; fourth, a letter from the Bank of Oregon; fifth, a letter from METLIFE Capital Corp.; sixth, I have a letter from an investment banker stating that the 30-year permit is not an obstacle to underwriting an equity sale of stock for ski area financing; seventh, I have included a letter from my district forest ranger explaining their policy on extending a permit to dispel any questions in your mind.

The point that I am trying to make is that the term of 30 years in no way affects the availability of financing for ski areas, even with the disappearance of Government-assisted programs such as SBA and the industrial revenue bonds.

Creative financing from the private sector will fill in any void left by Government-assisted programs. A good example is the life insurance companies and their capital leasing programs.

I do support the change from the two-permit system to a single permit for the sake of everyone involved. This dual permit system has no practical purpose in today's world and is nothing more than a fifth wheel that everyone has learned to work around. Any change in the dual permit system requires legislative action and I would like to see this happen.

As many of you know, since the scheduling of this hearing, the House committee on Interior and Insular Affairs has marked up the original H.R. 4489. The recently amended version addresses my primary concerns with the original bill. Although I am content with the current 30-year term, I find the proposed 40-year term an acceptable compromise.

Therefore, I strongly encourage the Senate committee members to review and consider the adoption of the House-amended version. I am confident the members of this committee will see the wisdom of the proposed changes in the House counterpart and will allow the bill passage on the Senate floor.

I would like to thank you for your time and will be glad to answer any questions.

[Attachments to Mr. Healy's statement follow:]

1852 Congressional Research Service
The Library of Congress

Washington, D.C. 20540

[illegible]
DISTRIBUTION UNIT

DL

September 30, 1985

TO : [redacted]

FROM : George H. Siehl
Specialist
Environment and Natural Resources Policy Division

GHS.

SUBJECT : U.S. Forest Service Permits for Operation of Ski Areas on National Forests

The Congressional Research Service has been asked to provide a review of three questions pertaining to the standard permits issued to operators of ski areas on National Forest lands, and to the suggested changes in the permits or permit policy. Two of these questions are addressed below; the third will be covered in a supplemental response when information on suggested changes, requested from several outside organizations, has been received and reviewed.

The questions answered here are:

1. How does the current ski area permit of the U.S. Forest Service measure against other relationships found today in terms of time and acreage and other standard commercial considerations?

2. How acceptable is the current ski area permit to commercial enterprises such as lending institutions and others?

Background

The operation of commercial ski facilities on National Forest lands requires the issuance of two permits by the U.S. Forest Service. The first permit, granted on an annual basis under the authority of 1897 Act (30 Stat. 35, as amended) covers all ski trails and disturbed areas, for which the permittee would not be reimbursed if the permit is terminated prior to the expiration date. This is the same permit that is required for occupancy and use of Forest Service lands by a range of users, including outfitters and guides, organized camps, and powerline rights of way. Some large-scale uses of resources on Forest Service lands, such as timber operations, mining and grazing, do not require an annual use permit because legislation pertaining to these uses governs them and thus eliminates the need for the annual use permit. The permit for ski areas are issued only after environmental assessment, but once issued, are almost always annually renewed.

The second permit, granted on a term basis under a 1915 Act (38 Stat. 1101, as amended) covers the areas upon which improvements such as lodges, restaurants, lift equipment, and employee housing have been constructed. The term for the latter permit may not exceed 30 years and may not apply to more than 80 acres. The Federal Government would be required to reimburse the permittee for the value of these developments if the permit should be terminated by the government prior to the expiration date, unless the termination was due to the failure of the permittee to comply with the terms of the permit. The Forest Service states that there have been no cases in which such a ski area permit was terminated by the government prior to the expiration date.

Conditions in Permits

To determine how the conditions of Forest Service permits for ski areas compare with other contractual relationships for securing lands for ski operations, several sources were asked to provide pertinent documents. The Forest Service provided a copy of an existing term permit agreement, two ski areas operating on privately owned lands provided copies of their commercial leases, and the National Park Service (NPS) provided copies of the concession permits at three National Park units where downhill skiing is permitted. One of these NPS permits is used for comparative purposes. It must be noted, however, that downhill skiing is limited in its extent in each of the National Parks where it is allowed, and is not similar to the extensive downhill operations which are permitted on National Forest lands. Provisions covering skiing are generally treated as visitor services to be provided under an existing agreement with a park concessionaire.

Table 1 indicates the time, acreage and fee considerations identified in these documents.

The two Federal permits contain stipulations regarding adherence to Federal laws and directives requiring nondiscrimination in hiring and service to the public. They also are more specific in setting out details on operation and maintenance of the permitted areas. The Forest Service permit is very explicit in this regard.

Table 1.--Comparison of Selected Provisions of Ski Area Permits and Leases

Lessor	Term in Years	Acres	Fee Determination
USFS	1 (annual) 30 (term)	14	Term permit fee structure is based on all revenue sources, not just lift revenues.
Commercial Lease "A"	24	865	Sets minimum rental fee based on a % of income from lift tickets; minimum to be readjusted at set intervals, amount based upon CPI.
Commercial Lease "B"	20, with right and option to renew for 20 more years.	Approx. 9,500	Sets a per acre fee, or % of lift revenues, whichever is higher. Provides for increase in % figure at each lease renewal.
NPS	5	Approx. 200	Sets an annual franchise fee.

The commercial leases largely are confined to setting out the rights of the two parties, establishing the amount of the rental fee and how that amount shall be modified in the future, and similar real property considerations. These leases also require that the premises be maintained in "neat and safe condition" and "in as good condition" as when first leased. One of the leases does require the lessee to "comply with all Federal, State and local laws, rules and regulations applicable to the leased premises," but does not otherwise elaborate.

A unique provision on one commercial lease gives the land owner title to "all buildings, structures, facilities and improvements situated upon and which are affixed to the soil of the leased premises" when the lease terminates. The Forest Service requires removal of all structures and improvements upon termination of the permit.

All of the documents examined contained clauses requiring the operator to obtain liability insurance which would protect the lessor as well as the lessee. Both private landowners and the Federal agencies specify that they are to be indemnified against any liability arising from the occupancy and use of their land by the ski area operator.

Views of Lenders

One question raised was how do banks or other lending institutions view the current permit system for ski areas on Forest Service lands when they are asked to make money available to ski area developers and operators.

To determine the attitude of lenders, personal and telephone interviews were held with 12 bank loan officers and vice presidents in 10 banks around the country that are now or formerly were active in making commercial loans to ski areas. The banks contacted are thought to be representative of those which have made loans for ski area development, in that they are geographically diverse and include those banks which provide the bulk of ski area lending activity in their State as well as those serving one or two ski areas. They include institutions which have been identified by ski industry sources as being involved in financing ski area development. Other views or attitudes might be revealed in additional sampling, but there seemed to be considerable consistency among the sentiments offered in these interviews. The responses were informal expressions unaccompanied by documentation or quantification from the bankers. A list of the banks contacted is included as an appendix.

Overall, those interviewed were aware of the details of the permit process and conditions. They were aware of the annual permit and noted some concern about this feature, although they did not know of any instance in which the Forest Service closed ski operations at an area other than for safety reasons and then only for a brief period of time.

The most frequently voiced view of the lenders was that the operator was a more important factor in making a loan than the conditions of the Forest Service permit. That is, an operator with a good history of running a ski area would have little difficulty in borrowing money to expand an existing area or to develop a new facility if the plans for the project were otherwise satisfactory. A borrower who did not have experience in running a ski area, however, would have more difficulty in obtaining a loan, all else being equal.

One California loan officer noted that on ski area loans his bank would "make its judgment on the basis of managerial capability."

These expressions of attitude were offered in the interviews:

*More weight usually is placed on the managerial capability of the ski area operator than on the conditions of the permit.

*The 30 year term of permits does not pose problems for lenders, as most commercial loans are for much shorter periods of time.

*The preference of lenders would be to deal with a lease on property which could be viewed as collateral on a loan.

*The preference of lenders would be to deal with a lease on property which could be viewed as collateral on a loan.

*Lenders, while expressing general comfort with the permit process, may compensate for the lack of collateral value in the Forest Service permit in several ways, including making less money available to a borrower, reducing the term of the loan, or charging a higher interest rate.

*Greatest concern, noted by bankers in New Hampshire and Oregon, was with the annual permit required by the 1897 Act.

*The Forest Service is viewed as not likely to cancel a permit, in part because of the record the agency has established in dealing with operators, and because the Service is thought to be interested in securing the income to the Federal Government which the activity provides.

On the basis of the lenders interviewed, and several conversations with Forest Service personnel who administered districts in which ski areas were located, there was no indication that bank lending officers spoke directly with the Forest Service field managers about the permit prior to making a decision on the loan in question.

The bank officers were asked to respond to the possibility that banks might sometimes deny a loan, using the Forest Service permit as the reason for the negative decision, when the real reason was a perceived shortcoming in the proposal or the prospective borrower; and because the bank did not wish to offend the borrower, the permit might be used as an excuse for denying the application. Only one banker thought that this might happen in other banks, but said that he was personally unaware of any specific instances. No other banker was aware of such instances, and some expressed strong feelings that the permit was never used as an excuse for denying a loan.

APPENDIX

Banks Contacted to Discuss Loans to Ski Areas Operated Under Forest Service Permits

State	Bank
California	Bank of America Crocker Bank Wells Fargo Bank
Colorado	1st Interstate Bank United Bank
Massachusetts	Bank of Boston
New Hampshire	Savers Bank of Littleton
Oregon	U.S. National Bank
Utah	First Interstate Bank First Security Bank

First Interstate Bank

First Interstate Bank
of Oregon, N. A.
Bend Branch
P.O. Box 1191
Bend, OR 97701
503 388-0511

J. A. Sharkey
Vice President and Manager

April 3, 1986

William A. Healy, President
Mt. Bachelor, Inc.
P. O. Box 1031
Bend, OR 97709

Dear Bill:

We understand there is a pending legislative effort to change the terms of Forest Service permit leases, from the current policy of 30-year maturity to a 55-year maturity program. Some of the support to this effort has been indicated as a change necessary for needed support to lending institutions considering loans.

This simply is not the case at all as it relates to our experiences and past policy decisions regarding our loans to Mt. Bachelor, Inc. Our credit decisions to you over these past many years, the present, and the future, are primarily based on your own management and financial history and is not on the strength of the U. S. Forest Service permit term.

Apparently, we have a case again, of a new fixer trying to repair something that isn't broken!

Sincerely,

J. A. Sharkey
Vice President & Manager

JAS:mf

US BANK

UNITED STATES NATIONAL BANK OF OREGON
A Subsidiary of U.S. Bancorp

JOHN H. RICKMAN
SENIOR VICE PRESIDENT

HEAD OFFICE
309 S. W. SIXTH AVENUE
P. O. BOX 4412, PORTLAND, OREGON 97208

April 17, 1986

Mr. William A. Healy, President
Mt. Bachelor, Inc.
P. O. Box 1031
Bend, OR. 97709

Dear Bill:

Thank you for your information regarding the proposed changes on Forest Service Permits for ski areas. I'm not completely knowledgeable about all of the aspects of Forest Service Permits, but what I can respond to is what the bank is interested in when it looks at a loan request on land owned by the Forest Service. If the request to fund improvements extends beyond the existing permit period, then the bank would have a difficult time approving such a loan. What I would strongly urge is that the Forest Service Permit process be open for renegotiation prior to the expiration of the Permit date to allow the user the flexibility to negotiate a loan or lease over a reasonable length of time and have the renegotiated Permit extend a few years beyond the maturity of the new loan or lease.

Sincerely,

John H. Rickman
Senior Vice President

JHR/ebw

OREGON
BANK
AN ORBANCO COMPANY

April 7, 1986

William Healy, President
Mt. Bachelor Inc.
P. O. Box 1031
Bend, Oregon 07709

Dear Bill:

We are aware that some members of your industry are encouraging changes in the legislation which limits the maturities on permits issued by the U. S. Forest Services. We were not aware that efforts were under way to change the length of the permit from 30 to 55 years. We were of the opinion that changes were being encouraged to allow for longer than one year leases on land utilized for the slopes.

Neither issue concerns us as is evidenced by our loan commitment to you. It is my opinion that the issue is best left alone. Dave has met Arnie Finnochio who is with the Bank of America. He shares the same opinion as we do, and perhaps he is also a source of support for your cause.

If we may be of further service to you, please call.

Sincerely,

M. R. Empey

Michael R. Empey
Senior Vice President

MRE:kr

The Oregon Bank
Business Services Division
1001 S.W. Fifth Avenue
P.O. Box 3066
Portland, Oregon 97208
[illegible]

METLIFE CAPITAL CORPORATION
10900 N.E. 8th St., Suite 1300
Mailing Address C-97550, Bellevue, WA 98009
(206) 451-1726

Metropolitan
Insurance Companies

Vince R. Iaci
Vice President/Manager
Credit Administration

May 5, 1986

Mr. William Healy
President
Mt. Bachelor, Inc.
336 Century Drive
Bend, OR 97709

Re: Equipment Lease (Chairlift & Maintenance Building) between Mt. Bachelor, Inc., as Lessee, and MetLife Capital, Limited Partnership, as Lessor

Dear Mr. Healy:

This is to advise you, and others to whom it may concern, that in analyzing leases similar to the above referenced transaction, MetLife analyzes the creditworthiness of the Lessee from the standpoint of the ability of the Lessee to make lease payments from current revenues. This process includes an analysis of cash flow, earning potential, and other factors related to the operation of the business. The value of Mt. Bachelor's permit with the Forestry Service would not be a material factor in the analysis except to the extent that MetLife is, obviously, interested in Mt. Bachelor's ability to continue operating.

Please let me know if you require any additional information in this regard.

Very truly yours,

Vince Iaci

VI:PG:je

0188Z

LAWRENCE S. BLACK
chairman
director

June 11, 1986

W.A. Healy
President
Mt. Bachelor Inc.
P.O. Box 1031
Bend, Oregon 97709

Dear Mr. Healy:

It is my understanding that Congress is considering changing the forest service permit for a ski area from 30 to 55 years in length. As an investment banker, I would like to go on record as stating that a 30 year permit has been and will continue to be adequate to meet the requirements set forth by the investment industry.

There have been a number of publicly owned ski areas, such as Aspen and Vail and the 30 year permit did not act as an obstacle in any way.

I recommend maintaining the permit as it now stands.

Sincerely,

Lawrence S Black

Lawrence S. Black
President

Black & Company, Inc.
One Southwest Columbia Street · Portland, Oregon 97258

United States Department of Agriculture | **Forest Service** | Bend Ranger District
1645 Highway 20 East
Bend, OR 97701

Date: APR 24 1986

Reply to: 2720 Term Special Use Permits

Subject: Expiration of Term Permits

To: Bill Healy
P.O. Box 1031
Bend, OR 97709

In response to your query on the procedure for extending or renewing a term permit, the extending of the termination date on a term permit is discretionary with the Forest Service. When there is less than 10 years left on a term permit and the permittee has incurred a bank term which extends beyond the termination date of the permit to finance agreed upon expansion or upgrading in an approved master plan the Forest Service could issue a new permit for 20 to 30 years.

This is common practice, if not formal written policy, with the Forest Service and very few if any term permits issued by the Forest Service for ski areas ever run their full term without being reissued prior to the initial termination date.

If you need further clarification on this issue, do not hesitate to give me a call.

Walt Schloer
WALTER C. SCHLOER, JR.
District Ranger

Senator **Wallop**. Thank you, Mr. Marsh. Thank you, Mr. Healy. Mr. Badami.

STATEMENT OF NICK BADAMI, CHAIRMAN OF THE BOARD, ALPINE MEADOWS OF TAHOE, INC., CA, ON S. 2266

Mr. **Badami**. My name is Nick Badami. I am chairman of the board of the National Ski Area Association, a national association which represents the ski areas in the United States, both on and off the national forest.

I am also vice chairman of the board of American Ski Federation which is the national association of the entire ski industry. And I am currently chairman of the board of Alpine Meadows of Tahoe which owns and operates Alpine Meadows ski Area on the national forest in California, as well as chairman of the board of Park City ski area in Utah, located on private land, and I am presently building a new ski area on private land in the State of Nevada.

I have written comments which I submit, but as the Senator asked, I will address certain specifics. I would like to take the opportunity to deviate. I would like to explain that there is 125 million dollars' worth of investment in Colorado and probably of that amount, $110 million is being financed by industrial development bonds, none of which are any longer available for this kind of financing in the future.

Second, I do respect Mr. Healy's concerns and his record of years gone by, but I have to admit to you that the present system and the 30-year lease makes this the province of a rich man's investment. We can all get financing on our balance sheets, we larger ski areas, the Bachelors, the Alpines, the Park Citys, the Vails, and the Aspens. That is not our problem.

Our problem is that we have been in parts of the evolution of financing an Alpine Meadows on Forest Service land by pledging either personal assets or assets that are in fee somewhere else in order to obtain that financing, but again that still is not the problem. The real problem is that the present legislation and the present 30-year type of approach prevents the individual stockholder or the markets, the financial markets of the world, from underwriting ski areas.

There is no way you can go into an underwriter and try and explain that you only have 30 years with no options. Even the commercial leases that are for 20 years may have four or five options on top of them. The State of Vermont has a 99-year lease and one of their companies just went public and raised capital in the public market, and I submit to you that what we have done with the 30-year narrow type of financing is prevent small people from getting in the ski business.

So that the underwriting aspects—sure, it never happened, because it is not economically viable to happen. And it will never happen in this atmosphere.

Now, I strongly support the 55 years. I support 99 years initially, but I knew we could probably not sell that, because only the States have been able to do that. However, we would be willing to accept the 40 years, because 40 years gives you that startup time, it's acceptable in the economic financial markets, and you could raise public financing.

So that there is really my concern. It has to be a combination of equity and borrowing, and in order to make it economically viable and to maintain the quality we have, we need that opportunity.

Thank you.

Senator **Wallop**. Thank you, Mr. Badami.

[The prepared statement of Mr. Badami follows:]

STATEMENT BY NICK BADAMI

CHAIRMAN OF THE BOARD, ALPINE MEADOWS OF TAHOE INC., CALIFORNIA

SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER
AND RESOURCE CONSERVATION

UNITED STATES SENATE

S. 2266

JUNE 20, 1986

My name is Nick Badami. I am Chairman of the Board of the National Ski Areas Association, the national association which represents ski areas both on and off of the National Forest. I am Vice Chairman of the Board of the American Ski Federation which is the national association for the entire ski industry and am currently Chairman of the Board of Alpine Meadows of Tahoe Incorporated which owns and operates Alpine Meadows Ski area on the National Forest in California as well as Park City ski area, in Utah, located on private land. I am also a Director of the National Avalanche Foundation, Vice President of the United States Ski Team, Trustee of the United States Ski Educational Foundation and Director of the United States Ski Association. I have extensive experience in private industry and have owned and operated numerous corporations unrelated to the ski industry.

I appreciate the opportunity to come before you today to discuss the provisions of S. 2266, National Forest Ski Area Permit Act of 1986. This legislation does not modify in any way existing statutory and policy requirements associated with the allocation of lands for ski area development nor does it change existing statutory or policy requirements controlling what can be constructed by the permittee on the national forest. What it does do however is eliminate the antiquated and clumsy dual permit system currently utilized by the Forest Service due to the lack of more appropriate statutory authority as contained in S. 2266.

The ski industry is extremely capital intensive. Construction costs as well as costs of operation have escalated significantly over the recent past. A start up ski area constructed in the early 60's may have cost one million dollars to complete in its initial phase. That same construction phase in today's market would more than likely cost $60 to $70 million for a large ski area. Not unlike other businesses ski area operators have received major increases in liability insurance, litigation expense, labor expense, utility expense, and construction expenses.

By providing ski areas a single permit for a reasonable time frame, we can accomplish several things. We can make a permit more comprehensible in the commercial world. We can allow permittees significant and important planning time. We can also eliminate an archaic system that only serves to confuse those unfamiliar with the system.

Much goes into planning and developing a ski area whether on or off the National Forest. Planning however is significantly more complex on the National Forest. Significant lead time needs to be given in order to comply with the provisions of federal statute controlling environmental issues and Forest Service policies requiring approval of all actions to be taken by the permittee. In some instances this is a considerable amount of time to be measured in years rather than months. The additional amount of time provided for in S. 2266 will assist the permittee in coping with this lengthy and complex process.

Along with planning for growth comes financial planning to finance growth. It is difficult under the current system of a maximum of 30 years to adequately plan for the financial needs of a ski area permittee due to the fact that interruptions will occur as a result of the statutory and regulatory approval requirements thereby concurrently interrupting planning for financial needs. Opportunities for long term financing are lost shortly after the issuance of the term permit which results in most ski areas heavy reliance on short term financing.

The elimination of the dual permit or more specifically the need for an annual permit places the permittee in a position to more clearly and easily present the permit or leasehold interest secured by the permit to a lending institution. The annual permit is most difficult for lending institutions to comprehend. In addition, the extension of years for a term permit would allow both the Forest Service and the permittee an opportunity to put together a workable permit time frame to satisfy lending institutions and their requirements for long term financing. We originally asked for 55 years which we felt was a reasonable time period, but we have agreed to support the House passed bill which changed the 55 year provision to 40 years.

Many potential lenders are constrained by law not to finance projects for a period in excess of a statutory limitation. As an example in some states insurance companies investing in ski area development could not provide a term for financing in excess of 80% of the leasehold interest. This of course is a minimum requirement.

None of the above is more pronounced than with a start up ski area. A new ski area has less opportunity under a 30 year term to seriously look at long term financial needs after the initial phase of construction. Additionally financial strength and borrowing power in today's market and under today's permit terms comes from a ski area's balance sheet as opposed to its equitable position in real improvements. Unless a new ski area is bolstered by financial backers who can personally secure short term financing little is left in the current market place as an alternative.

Ski areas on the National Forest need long term financing opportunities made available only through a longer term permit. The ski industry supports the provisions of S.2266 which provide for the kind of commitment we need to deal with the law and regulations which control us, our own long term planning needs and our borrowing requirements for future growth .

We are not requesting that you change the process of approval of development on the National Forest which is lengthy, costly, and complex, but we are requesting that you give us a significant amount of time on a permit to enjoy the fruits of our labor.

Senator WALLOP. It is a pleasure for me to welcome Paul McCollister here, who started Jackson Hole ski area in the early 1960's and developed the mountain over 20 years. He has good firsthand experience in all of this.

Paul, welcome here and thank you for coming.

STATEMENT OF PAUL McCOLLISTER, CHAIRMAN, JACKSON HOLE SKI CORP., TETON VILLAGE, WY, ON S. 2266

Mr. McCOLLISTER. Thank you, Mr. Chairman. I appreciate that. I guess perhaps the State of Oregon has different lending philosophy than the other areas in which the ski areas operate, but it seems to me that I would be belaboring the point since Mr. Healy has graciously agreed to support the 40-year term.

I have been in the ski business as a ski operator and owner for about 22 years and I am here to support S. 2266. I would like to thank the members of the committee who joined other Members of Congress to introduce the bill. I might say that all of the areas in the Rocky Mountain area support the bill also.

I have a small concern with Chief Peterson's position that he would like to delete the word "ordinarily" from the contemplated legislation. In my humble opinion, I think that this would gut the bill. It would have the practical effect of making the permitting process, the negotiating process part of that, even more complicated than it is.

I don't feel that it is appropriate for the Forest Service to take the position or have the authority to where they could nitpick the negotiating process to the point where a potential applicant would throw in the towel. I feel very strongly that that word should be retained in the bill.

Actually, there are many safeguards that the Forest Service presently have and will have in the new bill. For example, it contains the language that it may be renewed at the discretion of the Secretary. It may be canceled by the Secretary. It may be modified from time to time. So consequently, I believe there are adequate safeguards. Really, all we are trying to do is to combine the very awkward dual permit system into one workable system and nothing in this Act shall be deemed to amend or modify the present permit system. That takes into consideration all of the Environmental Policy Act, the Forest and Rangelands Renewable Resources Planning Act.

Moreover, which is I think extremely important, the public is very involved in this process. As a matter of fact, we have a master plan that took many years to formulate and every year we go into a session with the Forest Service, with the city planning commission, the county commissioners, the State of Wyomimg, the school board, the hospital, the highway department, the Fish and Game, and it just is very time-consuming, but it is a very practical thing because Jackson Hole Ski Corp. cannot do one single thing unless there is more or less agreement by everyone in the State of Wyoming that we really—unless it is possible to pursue the 55-year permit.

For example, Mr. Badami touched on the fact that the State of Vermont had a longer permit. In fact, they do. They have a 99-year permit. So there is ample precedent from that standpoint, and as you so logically pointed out, in commercial operations it is not atypical to have long-term leases. Of course, the Chief made the statement that it is a Forest Service practice to write a new permit whenever there is any substantial investment.

The fact that it is a practice doesn't necessarily mean that that is indeed going to happen, and whenever a lender looks at this, at our Forest Service permit, and he asks what is the meaning of this, and we say, well, it's always been the practice in the past that the Forest Service do renew these permits. And they always shake their head because they don't know who is going to be sitting in that Chief's office at the time it comes up for renewal.

I would like to thank the committee very much for taking the time and consideration. I appreciate it very much.

[The prepared statement of Mr. McCollister follows:]

STATEMENT BY PAUL MCCOLLISTER
CHAIRMAN, JACKSON HOLE SKI CORPORATION, WYOMING
SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER
AND RESOURCE CONSERVATION
UNITED STATES SENATE
S.2266
JUNE 20, 1986

My name is Paul McCollister, I am the Chairman of Jackson Hole Ski Corporation, located in Wyoming. I have been in the ski business as a ski area operator and owner for many years.

I am here to support S. 2266, The National Forest Ski Area Permit Act of 1986. I would like to thank those members of the Committee who joined with other members of Congress to introduce this bill which I feel will assist ski areas on the National Forest. I represent as well the National Ski Areas Association and would also like to advise the Committee that all the ski areas in the Rocky Mountains support this bill.

Once a permit is issued, and the process is complete and a decision is made to issue a permit for the proposed development, the ski area is issued a term permit for up to eighty acres (38 Statute 1101 as amended 16 United States Code 497) and an annual permit (30 Stat. 35 as amended 16 USC 551) for the remainder of land required for the development of the ski site. The Forest Service currently has authority to issue an annual permit for an unlimited amount of acreage. The actual acreage that is ultimately permitted for any given ski area is of course the product of both the Forest Plan and the Environmental Impact Statement or other environmental assessment.

These "annual" and "term" permits combined are the complete expression of the leasehold interest in the government land held by the permittee. It is the current policy of the Forest Service to place all buildings, lifts and structural improvements to be constructed by the permittee under the thirty year term permit. The rest of the acreage, trails, greenbelts, and undeveloped areas are covered in the annual permit. This is an effort to provide more of a security interest for the permittee in those portions of the ski area occupied by permanent improvements. For ease of understanding, we will continue to refer to the permit issued for up to thirty years as the "term" permit and the anually renewable permit as the "annual" permit.

To date, the Forest Service estimates that the ski industry has made an investment of approximately one billion dollars of improvements on the National Forest. A number of ski areas are approaching or have made permanent structural improvements beyond the scope of the eighty acre permit. That is to say that these areas have or will soon have improvements which cannot be located on the longer term permit and therefore are in fact on the annual permit. The consolidation of permits contemplated in S.2266, and the issuance of a single long term permit would eliminate this problem. The entire facility along with all of the improvements would be placed on one easy to manage permit which would provide the permittee with a complete and secure interest in the necessary land.

A typical modern term permit and annual permit is attached to this testimony. There are several provisions within these permits that are worth discussing in this hearing.

First, both the term permit and the annual permit have provisions dealing with termination. The term permit (provision 16) indicates that if during the term of the permit the Secretary of Agriculture or any official of the United States Forest Service acting by or under his authority shall determine that the public interest requires termination of that permit, the permit shall terminate upon 30 days written notice to the permittee. The annual permit (provision 16) terminates upon breach of any condition or at the discretion of the regional forester or the Chief of the Forest Service.

These termination provisions also provide for compensation in the case of termination. The term permit, if terminated requires the government to purchase the permittee's improvements, to remove the improvements, or to require the permittee to remove them. The government's obligation consists of the cost of removal or an equitable consideration for the improvements not in excess of an amount determined at the time the permit was signed and stated in section 17 of the permit. The annual permit requires no compensation to the permittee for termination.

Some other provisions of interest include provision 13 of the annual permit which prohibits transferability. All of the requirements for planning which have been discussed are also found within the provision of the term and annual permits. It is important to note as well that these provisions dealing with ski lift or site plans all require previous approval of the United

States Forest Service for any and all modifications to equipment or real property within the permit boundary. Nothing in S.2266 would change that.

Provisions 46 and 47 of the term permit give the United States Forest Service the authority to make inspections and to regulate the number of skiers on the ski slope as well as the authority to regulate waiting times for the loading of lifts. Provision 48 gives the District Ranger the authority to inspect the permitted facilities and improvements at any time and allows him to immediately suspend use or operation for non compliance with the terms of the permits.

It should also be noted that the permit is a nonexclusive permit. Provision 49 of the sample permit reserves the right for the United States Forest Service to use any part of the permit area for any purpose.

As a comparison, I would like to submit into the record and describe the provisions of a typical lease used by the state of Vermont to lease state land to a ski area. This single lease provides the ski area with a ninety nine year lease with a provision that the state will compensate the ski area up to four times its fair maket value if the state should decide to terminate the lease. Furthermore, the lease does not impose a whole periphery of other requirements on the lessee as does the United States Forest Service lease by way of the Forest Service manual. In general, this lease reads as more of a commercial, arms-length type lease.

The point of my testimony is that the standard ski area permit contains numerous terms which provide for strict control of the permittee's operations by the Forest Service. Nothing in S. 2266 is intended to lessen such control and S. 2266 provides for the promulation of regulations to continue such control. We would envision that these new regulations would be much the same as the exsiting regulations and would provide for permits with terms similar to the existing permits.

In effect, all that S.2266 really does is remove the dual system of permits now used by the Forest Service and directs the Forest Service to henceforth issue one permit to a ski area for the entire acreage required. It would not limit or reduce the permittee's responsibility to deal with the requirements of the National Forest Management Act. The National Environmental Protection Act, or the policies of the Forest Service dealing with the operation and regulation of winter recreation sites.

We have already presented testimony which illustrates how we acquire a permit. The public has many opportunities to view and comment on what occurs at a ski area on public land.

We have also described how a permit is aquired by a ski area. The permit gives the Forest Service broad authority to regulate resorts. The permit specifically requires Forest Service approval of all construction and development, all subleases, subcontracts, skier capacity, all operating plans and procedures. The permit is nonexclusive and can be terminated in the public interest.

We have shown that at best a ski area can plan on a thirty year commitment from the government under the present law. And yet the Forest Service sometimes directs us to grow to meet the demand and to also provide other recreation services for which demand is established. To do this we must make substantial financial commitments to grow, but that is difficult when dealing with a limited acreage thirty year term permit and even more difficult under a dual permit system.

Other types of permits or leases given by the government are for unlimited duration or for as long as the purpose of the permit continues. Examples of this include permits for pipelines, power transmission lines, mineral leases and roads. Like ski areas, the capital investments that accompany such permits are large and involve long term occupancy. The ski industry has asked for a 55 year term permit in order to be able to plan for development and secure reasonable financing to pursue orderly development. We feel that this 55 year request was reasonable but we have agreed to support the House Subcommittee version of S. 2266 which has changed the 55 years to 40. This increased 40 year term will enable us to secure substantially more financing at a lower interest rate for a longer period of item than the current system. Obviously, if we can pay less for more money, our costs will go down, and that should help moderate increasing lift ticket prices. The duration of a ski area permit on public land should also take into consideration the time and expense required to satisfy the federal government's permitting process. This is a slow and expensive process which we feel should be coupled with a longer term permit.

I would now like to discuss permit fees. Most ski area permittees are currently under the Graduated Rate Fee System which was designed and implemented by the Forest Service.

Some 600 permittees use this system. Approximately 25% of these are ski area permittees. The remainder are other uses including summer resorts. The Graduated Rate Fee System is the dominant method used by the Forest Service to compute fees for ski area permittees. The sample permit entered into the record gives a complete description of the system.

Without taking into account expenses associated with dealing with the federal government, ski area permits account for almost 50% of all recreation special use fees collected by the Forest Service, yet occupy less than five one-hundredths of one percent of all National Forest lands, and account for only six percent of current overall National Forest visitor use days. The Forest Service currently has no national estimate of what it costs them to administer ski area permits. However, we estimate that a ski area permitteee paying an annual fee of $400,000 will generate approximately $40,000 of expense for the Forest that issued the permit. Thus we believe that ski area permits can generate up to ten times more revenue than the local forest incurs to administer them.

According to figures supplied by the Forest Service ski area permit collections rank third overall in all fees collected by the Service. We rank behind timber sales and mineral fees, but both of those activites use infinitely greater acreage than the 90,000 acres we occupy nationwide. We pay more in fees than the livestock industry and as much as all other recreation users combined. I think this illustrates that we are paying our fair share. Along with all the other documents which describe our use of the land, our fees are a matter of public record at each forest.

In summary, Mr. Chairman, the ski industry believes it pays appropriate fees, especially when compared to most other public land users, for the land it occupies. However, we are currently discussing our fees and fee system with the Forest Service, and anticipate that our fees may go up. We do not necessarily object to this, but strongly believe that the fee issue should continue to be set by negotiations and discussion between the Forest Service and the permittees, and we feel that Congress should not attempt to impose a specific formula or criteria.

Thank you for this opportunity to testify in behalf of S.2266.

Senator WALLOP. Thank you, Paul.

Senator Evans, do you have questions?

Senator EVANS. No questions.

Senator WALLOP. I just have one for both you, Mr. Badami, and you, Paul. Generally speaking, the industry seeks the longer term lease. Is that a fair statement?

Mr. BADAMI. Oh, absolutely. I think that quite honestly—and Bill Healy now is not really objecting to the longer term lease. He was objecting to the need for a 55-year lease and now we have compromised on this 40 years.

But basically in polling our entire membership on public land, it isn't—and the strange part about the ski industry is that it would be a very easy device for we strong people to keep it down to this number of ski areas.

But fortunately, and the reason I like the ski business, we have a lot of enlightened members of it. We feel more ski areas, the more skiers we're going to have in the United States and more opportunities to learn to ski and get more people out skiing. So that we don't want to do anything to preclude the development of new ski areas and expansion of old ones because of the financial restrictions that will be put on now that IRB's are gone and so on.

We'd like to be able to go in the public market and finance them. So that it's a unanimous thing in our business.

Now, the nordic centers also feel that they need some protection. They don't have quite as severe a problem for capital that the alpine ski areas do, and we are not trying to take away the discretion of the Forest Service of saying well, you don't need that much capital so we'll give you a 15- or 20-year lease. That's never been our intention.

Senator WALLOP. Well, in and around Jackson, you have a variety of ski areas, small ones and other things. Those that are smaller than you, and including you, what is their sort of capital source today?

Mr. MCCOLLISTER. Well, our capital source primarily is just the local banks. And as you well know, Wyoming is a very short on financing. I mean the State itself. It's difficult to finance within the State. And like Mr. Badami said, I don't know about the other two areas, but when I go to get a loan at the bank, if it's of any magnitude, I have to personally guarantee the loan.

Senator WALLOP. Your personal guarantee is the means of acquiring the capital.

Mr. MCCOLLISTER. Which really, I don't think, is the proper way to conduct an enterprise.

Senator WALLOP. That would probably be in Targhee and other places like that?

Mr. MCCOLLISTER. I'm sorry, Malcolm. I don't know about Targhee.

Senator WALLOP. All right.

Mr. Marsh, what about this lack of access to capital for smaller operators who cannot personally fund or personally guarantee and who might need this longer period. I think we are all agreed on the consolidation of leases. I am focusing on the other one—those who might need this longer period as a means by which their capital could be secured.

Mr. **Marsh**. It has not been proven to us by the ordinary financing situations that we go through that that is necessary.

Senator **Wallop**. But Mt. Bachelor is a pretty good-sized organization.

Mr. **Marsh**. The statements that we have from our lending institutes are blanket. They cover other smaller areas as well.

Senator **Wallop**. I know you have a statement, but do you know whether those lending institutions are lending on the leases or lending on the personal guarantees?

Mr. **Marsh**. I think if we look—both.

Senator **Wallop**. All right, thank you all very much. I appreciate it.

What I am going to do now is I am going back to the administration witnesses, and have Max and Denny Galvin come up and we will start with S. 2351.

I will tell you what. Senator Evans suggests that we do the environmental witnesses, so why don't we do that?

Mr. Dave Alberswerth from the National Wildlife; Steve Blomeke from the Colorado Wildlife Federation; and Michael Scott of the Wilderness Society.

Mr. Dave Alberswerth.

STATEMENT OF DAVID ALBERSWERTH, NATIONAL WILDLIFE FEDERATION, DENVER, CO, ON S. 2266

Mr. **Alberswerth**. Thank you very much, Senator. I will try to summarize my remarks briefly and I assume that my full remarks will be published in the record.

Senator **Wallop**. Of course. Yes.

Mr. **Alberswerth**. Mr. Chairman, the National Wildlife Federation has several reasons that we are concerned about the implications of S. 2266. First of all, we believe that the 55-year permit term proposed in the bill is an excessivly long time for a special use permit to be issued on national forest lands. We are not convinced there is any rationale that we have heard for why a 55-year permit is more desirable than a 30-year permit.

Second, although we understand the administrative inconvenience of yearly permits, it's important to keep in mind that the yearly permit review process does, in fact, provide the public and local governments with frequent opportunities to review ski area development patterns to assure conformance with overall area development objectives.

I have attached to my statement an appendix, which is a memorandum from the Mad River Planning District, which encompasses the Sugarbush Ski area in Vermont, which notes that the yearly permit review process enables the planning district to hold the ski area's feet to the fire, in terms of conforming with the overall development objectives.

What we would recommend is that if the subcommittee decides to report a bill that does away with the yearly permits, that language be considered that would provide for periodic review opportunities of the public and local government, say, on a 5-year basis, perhaps.

I guess our most important concern related to ski areas is that if the idea here is to go to longer term permits, we believe that that should be accompanied by enhanced measures to protect wildlife habitat. We have been especially disturbed by the reluctance of the Forest Service to require mitigation of off-site damage to wildlife resources resulting from ski developments permitted on national forest lands.

Now, the Forest Service will admit that they have responsibility for assessing the off-site damages, but they do not believe that they have the authority to require the permittee to mitigate those damages.

We have appended some language to our statement, which we would like the subcommittee to consider, which would enable the Forst Service to require, as a permit condition, the permittee to mitigate off-site damages.

Lastly, we would recommend that this subcommittee authorize the GAO, OTA, CRS or some other congressional agency to study the economic value of longer term permits on ski areas to determine whether or not the Government is receiving fair market value from them.

One last thing is that we believe the language found on lines 11 through 13 on page 2 of S. 2266 should be deleted. It appears that that language broadly exempts ski areas from the Forest Service's Organic Act.

[The prepared statement of Mr. Alberswerth follows:]

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036-2266 (202) 797-6800

STATEMENT OF

DAVID ALBERSWERTH

OF THE

NATIONAL WILDLIFE FEDERATION

BEFORE THE

SENATE ENERGY SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER,

AND

RESOURCE CONSERVATION

REGARDING

S. 2266,

THE "NATIONAL FOREST SKI AREA PERMIT ACT OF 1986"

June 20, 1986

Mr. Chairman, members of the subcommittee, thank you for the opportunity to present the views of the National Wildlife Federation on S. 2266, the "National Forest Ski Area Permit Act of 1986". My name is David Alberswerth, and I am the Director of our Public Lands and Energy Division. The National Wildlife Federation is the nation's largest conservation/education organization, with over 4.5 million members and supporters in 51 states and territories.

This bill is of concern to us for several reasons. First, the 55-year permit term proposed in S. 2266 is an excessively long time for a special use permit to be issued. Though current law provides that the first 80 acres of any development can be permitted for a period of up to 30 years, it is, in fact, common practice for the Forest Service to issue the 80-acre permits for 20 years. And though we understand that the main complaint of those elements of the ski industry who wish to change the current permitting requirements is focused on the annual permits required for acreage in excess of 80 acres, we have seen no rationale offered for why a 55-year term should replace the 30-year permit.

It is further our understanding that generally the Forest Service does not authorize capital improvements to be located on the permitted acreage subject to yearly permits. This being the case, the only acreage upon which capital improvements can be made by ski operators is the first 80 acres under long-term permit. In other words, for all practical purposes, the yearly permits issued by the Forest Service to ski operators do not jeopardize the status of the long-term investments in facilities permitted on the lands subject to the 30-year permits. A practical effect of the legislation as proposed would be to permit capital improvements to be made on acreage beyond the 80 acres currently allowed, a significant change in policy.

It also is curious to us that the rationale for this bill is largely predicated on an assumption that certain changes may take place within the scope of pending tax reform proposals which may have an adverse impact on the ski industry's ability to obtain favorable financing terms from private financial institutions for expansions on National Forest lands. Certainly no credible argument can be made that the current permitting requirements have thwarted investments in ski areas. In Colorado alone $125 million in private capital was invested at existing ski areas over the past year, including 19 new lift installations. Would it not be prudent to wait until tax legislation is passed before considering changes of the sort proposed?

The yearly permit review process does in fact provide the public and local governments with frequent opportunities to review ski area development patterns to assure conformance with overall area development objectives. For example, according to the Mad River Valley Planning District, which encompasses the Sugarbush Ski Area in the Green Mountain National Forest in Vermont:

> ...the final EIS [for the Sugarbush Masterplan] established as a condition of the Forest Service decision and as a provision of the Ski Area's Special Use Permit, an ongoing program of monitoring and phased review. This program, negotiated by the parties, is now guiding decisions at all levels as the preferred alternative is implemented. Apart from good faith, compliance with the monitoring program is assured only through the Special Use Permit.
>
> ...The Special Use Permit renewal requirements insure a continuity of management policy despite frequent changes in management personnel. (see attachment)

Should this Subcommittee decide to end the yearly permit review system, provision should be made for the Forest Service, state and local government agencies, and the public periodically to review the status of existing and proposed developments which may have an impact on areas such as the Surgarbush Ski Area, and to participate in decisions affecting proposed changes or expansions of ski areas.

Second, given the problems which have been created for wildlife as a result of ski areas developed under the present regulatory scheme, we believe that any increased tenure for permittees, should be accompanied by enhanced measures to protect wildlife habitat.

Although it is true that ski developments occupy a small proportion of all National Forest lands, the cumulative impacts to wildlife from such developments, both on and off National Forest lands, can be extremely serious. For example, Vail Associates is currently developing a proposal for expanding its resort operation in the White River National Forest and on private lands in the vicinity. Should the development go forward as planned, Colorado's Division of Wildlife estimates that the reduction in elk winter range for the Dowd Junction elk herd will result in a reduction in herd size by one-third to one-half, from 300 to perhaps 150.

We have been disturbed especially by the reluctance of the Forest Service to require mitigation of off-site damage to wildlife resources resulting from ski developments permitted on National Forest lands. Our discussions with the Forest Service and state wildlife management personnel indicate that, although the Service often does admit responsibility for assessing the off-site impacts to wildlife, wildlife habitat, and other environmental values from ski developments permitted on National Forest lands, it fails to acknowledge any responsibility for requiring mitigation of those impacts. Instead, the Forest Service's position seems to be that responsibility for mitigating or avoiding those impacts is a matter for state or local authorities, not the Forest Service which is a federal agency whose legal authority for requiring mitigation measures does not extend beyond the Forest boundary.

We believe instead that the Forest Service should have the authority to require the permittee to avoid or mitigate off-site impacts created by ski area expansions on National Forest lands. After all, if it were not for the developments permitted on National Forest lands by the Service, off-site impacts would not occur. It is appropriate for the Forest Service, at its discretion, to require off-site mitigation measures of the permittee as a permit condition. We do not believe that this transgresses state/federal jurisdictional boundaries. It is simply a matter of requiring the permittee to take responsibility for the damage to wildlife and wildlife habitat caused by his/her ski operation. In fact, the State of Colorado has taken the position with respect to the proposed "Burnt Mountain" expansion at Snowmass that the Forest Service should require the permittee to mitigate off-site impacts to a migration corridor used by 1200 mule deer and 400 elk from the proposed development:

> ...the amended plan should not be implemented until preservation of the migration corridor and wintering areas has been assured. The U.S. Forest Service should require the permit applicant to prove such assurances have been secured prior to approval of the expansion plan because even approval may trigger

> development which could jeopardize preservation of the critical areas or make their preservation more expensive.
>
> ...No specific plans, however, have been made to acquire the critical migration corridor and wintering areas. The amended plan should not be approved unless and until such arrangements have been made to secure these areas; or, at a minimum, the plan revised to condition its implementation on prior acquisition of the necessary easements or other appropriate arrangements to preserve the areas. (State of Colorado, Office of the Attorney General, "Appeal of August 7, 1985 decision concerning Snowmass Ski Area expansion onto Burnt Mountain," September 23, 1985, pp. 3 and 4, attach 1).

We believe that clarifying that the Forest Service has this authority is especially important in the context of the proposed bill, since the conveyance of long-term privileges for ski development activities should necessitate a long-term view of the cumulative impacts of those developments to wildlife, both on the permitted National Forest lands and off-site. We have appended suggested language to this statement to address this concern.

A third issue of concern to us pertains to the economic value of long-term ski permits, and the extent to which the public benefits from the economic value of those permits. In his budget message to Congress last February, President Reagan stated that "Those who receive special benefits and services from the Federal Government should be the ones to bear the costs of those services, not the general taxpayers." It seems evident that conveying extended-term permits to ski operators also enhances the economic value of those permits. That is implicit, after all, in the ski industry's rationale for the bill: presumably there are financial benefits which accrue to operators from longer-term permits. We believe that the Congress should determine whether or not the Forest Service's current fee system will be adequate to capture fair market value for extended term permits. This could be accomplished by simply authorizing the General Accounting Office or the Congressional Research Service to investigate the matter.

Finally, we urge that the language found on lines 11 through 13 on page 2 of S. 2266 be deleted. This language appears to broadly exempt ski areas from the Forest Service's Organic Act.

Thank you.

Attachments

Insert the following language on line 11 of page 3 after "permittee." :

> The Secretary may require a ski area permit holder, as a condition of the issuance of the ski area permit, to take measures to mitigate or avoid damages to fish, wildlife and other environmental resources which are determined to be likely to occur on lands beyond the area covered in the ski area permit, as a consequence of the issuance of the permit.

Mad River Valley Planning District

TO: Monty Fischer, Executive Director
Vermont Natural Resource Council

FROM: Jeffrey F. Squires
DATE: April 30, 1986

RE: Proposal to Revise the Leasing System for National Forest Land

Sugarbush Valley Ski Area in Warren, Vermont is located in large part on lands included in the Green Mountain National Forest. Sugarbush Valley, Inc. leases this land through a Special Use Permit from the U.S. Forest Service. At present, this lease is subject to renewal on an annual basis.

In 1979, in compliance with provisions of its annual Special Use Permit, Sugarbush submitted a Masterplan for expansion and development of its operations on Forest Service land. Prior to approval of the Masterplan, the Forest Service required the preparation of an Environmental Impact Statement.

Local, regional, and State governmental entities participated actively in the EIS process. The EIS disclosed a variety of secondary physical and socio-economic impacts. The severity of these impacts would vary widely, the EIS concluded, depending upon the pace, scale and distribution of development arising from the ski area expansion. In addition, externalities including the weather, regional and national economies and energy availability would bear upon the impacts experienced.

The final EIS designated a preferred alternative growth plan significantly reduced in terms of capacity and duration from that proposed in the Masterplan. Also, and perhaps of greater importance, the final EIS established as a condition of the Forest Service decision and as a provision of the Ski Area's Special Use Permit, an ongoing program of monitoring and phased review. This program, negotiated by the parties, is now guiding decisions at all levels as the preferred alternative is implemented. Apart from good faith, compliance with the monitoring program is assured only through the Special Use Permit.

An additional, though related, value that I see in regular renewal of the Special Use Permit has to do with the frequent change in ownership and management that we have experienced at Sugarbush Valley, Inc. Since 1977, we have seen the ski areas involved change hands four times with attendant changes in management practices and personnel. The Special Use Permit renewal requirements insure a continutiy of management policy despite frequent changes in management personnel.

As I understand it, the argument for a change in leasing policy has to do with the ability to finance private investment on public lands. If the experience at Sugarbush is any indication, there is currently no shortage of financing for either the purchase or addition of private assets in the Green Mountain National Forest.

If I can be of any further assistance on this matter, please feel free to call on me.

Alpha. HI DH KEZ
AG-85-09-113

1876

Duane Woodard
Attorney General
Charles B. Howe
Chief Deputy Attorney General
Richard H. Forman
Solicitor General

The State of Colorado
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street
Denver, Colorado 80203
Phone 866-3611 & 866-3621

September 23, 1985

Mr. Richard E. Woodrow, Supervisor
White River National Forest
P.O. Box 948
Glenwood Springs, CO 81602

RE: Appeal of August 7, 1985 decision concerning Snowmass Ski Area expansion onto Burnt Mountain
AG Alpha No. NR WI CYU
AG File No. DNR8504687/JR

Dear Mr. Woodrow:

The State of Colorado acting by and through the Department of Natural Resources, Division of Wildlife (DOW), and the Department of Highways (DOH) hereby appeals your August 7, 1985, decision to amend the Snowmass Ski Area master development plan to include and allow the expansion of the Snowmass Ski Area onto Burnt Mountain, Pitkin County, Colorado. Appellant State of Colorado is adversely affected by said decision as explained below. The basis and reasons for said appeal are set forth as follows:

The conclusion that the proposed amended plan would not significantly affect the quality of the human environment and that impacts on forest resources (i.e., wildlife and wildlife habitat) can be adequately mitigated is incorrect. The environmental assessment inadequately assesses the impacts of the proposed action on wildlife and on the transportation network.

Despite the fact that the environmental assessment acknowledges the potential for significant impact of big game, the plan fails to specify mitigation measures to protect migration routes to and wintering ranges for the existing elk and mule deer populations; and absent adequate measures, catastrophic consequences, i.e., substantial reduction in the deer and elk populations can be expected (see below).

Although the Forest Service acknowledges the potential adverse impacts on wildlife habitat it fails to address whether the decision is consistent with the obligation to plan for and manage the forests for multiple uses including wildlife and fish purposes. 16 U.S.C. sec. 528; 16 U.S.C. sec. 1604. That failure, and the selection of an alternative that is destructive of a wildlife resource valuable for the accomplishment of multiple use purposes is arbitrary, capricious and an abuse of discretion.

The environmental assessment appears to note the current capacity and safety problems which exist on all highways serving the Snowmass Ski area.

The expansion alternative 2 will result in severe impacts from increased traffic volumes, air pollution, and reduced safety on S.H. 82 and adjacent county roads. The brief postponement of the construction of the expansion of the ski area fails to address or mitigate these transportation problems and ignores the serious funding realities and legal requirements necessary for any highway improvements to S.H. 82. The expectation that the state or local governments will resolve the transportation and air quality problems lacks a rational and a factual basis.

The consequences do constitute significant impacts on the human environment and therefore require mitigation of the impacts or preparation of an environmental impact statement in accordance with the National Environmental Policy Act, 42 U.S.C. sec. 4332.

Further, to the extent that the environmental assessment truly cannot predict the likely impacts of the proposed alternative action because there are gaps in the Forest Service's predictive information, the Forest Service should be required to undertake a worst case analysis rather than present speculation as to what resources could be affected. Southern Oregon Citizens Against Toxic Sprays v. Clark, 720 F.2d 1475 (9th Cir. 1983).

Additionally, the U.S. Forest Service has acted arbitrarily, capriciously and abused its discretion in failing to cause an environmental impact statement to be prepared on the proposed expansion in light of Council on Environmental Quality guidelines requiring such statements where proposed federal action is likely to be controversial. The proposed expansion is already a controversial public issue.

WILDLIFE ISSUES

There is currently in the area of planned expansion herds of approximately 1200 mule deer and 400 elk. These animals migrate from the summer range to their wintering areas along recognizable corridors down Burnt Mountain across Owl Creek and Brush Creek to wintering areas north of Burnt Mountain.

The proposed Burnt Mountain expansion will increase the skier capacity at Snowmass approximately two-thirds, or 6,600 additional skiers a day. This will cause an increased need to develop the area around Owl Creek Divide and increase the demand to build houses, condominiums, and other commercial development on the already impacted winter areas between Owl Creek and Brush Creek. It will also cause a need to improve the Owl Creek Road and substantially upgrade the Brush Creek Road probably to a four lane. The increased road traffic will undoubtedly result in cutting off the migration as well as limiting the wintering areas of the 1,200 mule deer and 400 elk. If the animals become cut off from wintering areas, it is likely that they will cause significant damage to private property (crops, fences, orchards, ornamental shrubbery, etc.). Much of such damage would become the liability of the State of Colorado pursuant to article 3 of title 33, Colorado Revised Statutes (1984) (damage by wildlife). Isolated from a suitable winter habitat, the deer and elk populations would be substantially reduced over a period of several years. Elimination of these majestic big game species from the Snowmass area would be a most significant and adverse impact to the human environment. This result, however, is unavoidable if the herds are cut off from critical winter habitat. Therefore, the amended plan for expansion of the ski area should not be implemented until preservation of the migration corridor and wintering areas has been assured. The U.S. Forest Service should require the permit applicant to prove such assurances have been secured prior to approval of the expansion plan because even approval may trigger development which could jeopardize preservation of the critical areas or make their preservation much more expensive.

The choice of an alternative that virtually assures harm to a national forest resource -- wildlife -- is contrary to the legal responsibility of the Forest Service to plan for and manage its lands and resources for multiple uses. See Multiple Use Sustained Yield Act, 16 U.S.C. sec. 528 and National Forest Management Act, 16 U.S.C. sec. 1604. Furthermore, there is not even a discussion in the decision notice or the environmental assessment of whether or how these responsibilities can be met. It is unlikely that a migration corridor that is impaired at the boundary of the forest will be adequate. The fact that it will be protected within forest boundaries is little consolidation if it will be significantly impaired outside those boundaries by the action to be authorized by the Forest Service.

Although the amended plan would modify the special use permit boundary on U.S. Forest Service property to exclude a portion of the migration corridor, such action would only secure part of the necessary area. Necessary protection of this critical big game habitat requires protection of the entire migration corridor as well as the winter range. This involves real property owned by a multitude of private parties as well as lands under the jurisdiction of several governmental entities (including Pitkin County, the town of Snowmass, U.S.F.S. and BLM).

Provisions spelled out in the Forest Service decision document state that the service will involve the DOW and other local government agencies in a committee to identify and protect migration and wintering areas. No specific plans, however, have been made to acquire easements or for other appropriate arrangements to secure the critical migration corridor and wintering areas. The amended plan should not be approved unless and until such arrangements have been made to secure these areas; or, at a minimum, the plan revised to condition its implementation on prior acquisition of the necessary easements or other appropriate arrangements to preserve the areas.

In support of the approval, the decision notice argues that the area will be developed regardless of whether or not the Burnt Mountain expansion is approved. It is entirely likely, however, that absent the planned ski area expansion, development would proceed on a slower schedule, that the type of development would be less concentrated and the economic values not inflated so high as to prevent acquiring easements and other protection for wintering areas and migration routes.

HIGHWAY ISSUES

The Department of Highways (DOH) does not disagree with the concept of some expansion of the Snowmass Ski area. Its objection is to the failure of the Forest Service to comply with NEPA in the preparation of the environmental assessment and the issuance of the finding of no significant impact.

S.H. 82 is the principal highway serving the Snowmass Ski area. It has been a very congested highway with a high accident/fatality rate since the late 1960's. Pitkin County has chosen to utilize alternatives to the modernizing and upgrading S.H. 82 to attempt to resolve the problem. These alternatives have been unsuccessful. Hampered by limited funding DOH has been limited to safety improvement projects throughout the length of S.H. 82. As a result today S.H. 82 has very poor levels of service, increased length of congestion periods, and high accident/fatality rates.

The purpose of the expansion of the Snowmass Ski area is to attract additional skiers to the area. Since the closest airport is in Aspen, the expansion must result in increased vehicular trips on S.H. 82 resulting in increased congestion, further air degradation, increased accidents, longer periods of congestion during peak hours, and significant drops in levels of service for longer periods during peak days. The proposed Burnt Mountain expansion alone would require the expansion of the Pitkin County portion of S.H. 82 to a four-lane highway.

The information and conclusions on traffic and transportation impacts on S.H. 82 contained in the environmental assessment are inaccurate and misleading. These statements were previously identified to the Forest Service in a June 6, 1984 letter from Laurence R. Abbott, District III to Adam Poe, Colorado Joint Review Process and a January 8, 1985 letter from Laurence R. Abbott to Adam Poe, program director, Colorado Joint Review Process. Those comments are incorporated herein by reference. NEPA requires the Forest Service to have its conclusions substantially supported by correct data. Natural Resources Defense Council, Inc. v. Grant, 355 F. Supp. 280, 286 (E.D.N.C. 1973); National Wildlife Federation v. Morton, 393 F. Supp. 1286, 1297 (D.C.D.C. 1975). Relevant information cannot be omitted. Evans v. Train, 460 F. Supp. 237 (S.D. Ohio 1978). A less than full and fair disclosure results in a misleading document. City of Romulus v. County of Wayne, 392 F. Supp. 578, 588-589 (E.D. Mich. 1975). Misrepresentation also occurs when the cumulative effects of a project are not disclosed or adequately discussed. Or when the problem is conceded as existing and then dismissed by conclusory statements not supported by any authorities as the forest service has done in this case. National Resources Defense Council, Inc. v. Grant, 355 F. Supp. 280, 287 (D.C.N.C. 1973). A document does not comply with NEPA when it relies upon long term visions of highway engineers concerning comprehensive highway plans which may take years to construct, if they are built at all. Such information is speculative, irrelevant to the decisionmaker and outdated by the time the choice is made. Swan v. Brinegar, 542 F.2d 364, 368-369 (7th Cir. 1976).

Documents which are too vague, too general and too conclusory do not comply with NEPA. Environmental Defense Fund, Inc. v. Froehlke, 473 F.2d 346, 348-349 (8th Cir. 1972).

As has been noted in the above referenced letters in situations such as this one involving significant impacts to public safety and air quality, NEPA and CEQ regulations require the Forest Service to either prepare an environmental impact statement or mitigate the impact. Joseph v. Adams, 467 F. Supp. 141, 152, 155 (E.D. Mich. 1978). The environmental assessment, the finding of no significant impact, and the decision notice fail to provide mitigation. The 5 year postponement of the expansion fails to address the above referenced problems and does not provide mitigation measures. The attempt to place the full responsibility for implementing required mitigation measures upon state and local governments by a brief delay to the project ignores the financial and legal realities facing the state and local governments. The assumption that the Snowmass expansion highway needs can be met within 5 years with only public highway funds is without foundation in fact or law.

The Colorado Highway Commission and the Department of Highways cooperate with local governments to develop priorities for the use of available highway funding which is set forth in a 5 year plan. This process is reviewed annually to determine funding of specific projects. This process has defined a sequence of action for the entire 26 miles of S.H. 82 which need significant improvement. With the exception of minor safety projects, other sections of S.H. 82 have a higher priority for all available funding. Under current funding levels, no substantial improvements can be made in the area of S.H. 82 and Snowmass Ski area for at least 8 years.

The Pitkin County portion of S.H. 82 was identified as a "no work" section in the 1981 Carbondale-to-Aspen EIS. During 1985, a supplement to this EIS will begin. This process is estimated to take 3 years. Two additional years would be required for preconstruction requirements before any construction could begin. The high cost improvements between Aspen and Snowmass Ski area would not be the first priority projects and would take several years to complete, presuming funding was available. Thus, the intersections of S.H. 82 at Brush Creek Road and Owl Creek Road cannot be expected to receive major improvements for 8 to 10 years.

The Forest Service is required by NEPA to consider noise, air pollution and traffic congestion affected by its decision. McDowell v. Schlesinger, 404 F. Supp. 221, 246-247 (W.D. Mo. 1975). Arkansas Community Organization for Reform Now v. Brinegar, 398 F. Supp. 685 (E.D. Ark. 1975). The above-referenced documents fail to deal directly with the state's objections to the project. It also fails to resolve the objections by stating how the proposed alternative could avoid these major public objections and significant impacts and as a result make an EIS unnecessary. Kelley v. Butz, 404 F. Supp. 925, 934-935 (W.D. Mich. 1975).

The proposed mitigation measures requested by DOH are critical from a safety standpoint (Full channelizations to current design standards at both the Brush Creek and Owl Creek intersections with S.H. 82 and signalization when warranted). Clearly these modest measures are not an attempt to require the Forest Service or the proponent of the project to solve long-standing transportation problems. They are merely an attempt to obtain mitigation of the direct impacts imposed on S.H. 82 and adjacent county roads by the proposed action. Both NEPA and CEQ regulations require that the significant transportation impacts identified by the Forest Service in the environmental assessment be disclosed in an EIS or mitigated to an acceptable level of impact. Joseph v. Adams, 467 F. Supp. 141, 152, 155 (E.D. Mich. 1978); Patterson v. Exon, 415 F. Supp. 127, 128 (D. Neb. 1976). The environmental assessment fails to mitigate the above discussed significant impact, is misleading, inaccurate, and incomplete. For these reasons, the Department of Highways must request that the FONSI be rescinded, the decision reconsidered and either mitigation be provided as required by federal laws and regulations or an EIS be prepared containing an accurate and comprehensive disclosure of transportation impacts of the proposed action. Kelley v. Butz, 404 F. Supp. 925, 934-935 (W.D. Mich. 1975).

CONCLUSION

Briefly summarized, the environmental assessment has failed to adequately identify impacts on the wildlife and transportation issues; National Resources Defenses Council, supra, National Wildlife Federation, supra, City of Romulus, supra, Enfironmental Defense Fund, Inc., supra. Further necessary mitigation measures have not been required nor has an environmental impact statement been issued, Kelley, supra, Joseph, supra. As a result the conclusion of no significant impact on the human environment is clearly erroneous and the decision to permit the expansion is arbitrary and capricious.

REQUESTED RELIEF

WHEREFORE, the State of Colorado requests the following actions be taken:

1. That approval of the August 7, 1985 decision concerning expansion of the Snowmass Ski area be withdrawn and that no implementation of the amended development plan be allowed to take place until said plan has been further amended to assure preservation of the critical big game migration routes across Owl Creek and Brush Creek and of the wintering areas north of Burnt Mountain; and the full channelization to current design standards are constructed at both the Brush Creek and Owl Creek interstates with S.H. 82 and enforceable provisions are in plan to require signalization of those two intersections when the traffic volumes warrant the signals.

2. That an environmental impact statement on the planned expansion of Snowmass Ski Area onto Burnt Mountain be prepared, which will include, but not be limited to, evaluation of impacts of such project on the elk and mule deer populations in the area and identify appropriate and specific measures to mitigate adverse impacts to such populations, including measures to assure preservation of the critical big game migration routes and wintering areas. The EIS needs to be based on accurate and definite information on the severe impacts on increased traffic problems, air pollution problems and reduced safety on S.H. 82 and adjacent county roads.

3. That pending a decision on this appeal, implementation of the amended plan be stayed. The stay should prohibit any devel-

opment on Burnt Mountain or related development requiring Forest Service approval; that no funds be expended for acquisition of easements of ski related facilities (such as lifts and runs) or any other purposes related to expansion of the Snowmass Ski Area onto Burnt Mountain.

4. That representatives of the State of Colorado be granted the opportunity to make an oral presentation of the basis and reasons for this appeal to appropriate representatives of the U.S. Forest Service.

Respectfully submitted this 23rd day of September 1985.

FOR THE ATTORNEY GENERAL

Lynn Oberneyer

LYNN OBERNEYER
First Assistant Attorney General
Highways Unit
Natural Resources Section

Lawrence A. DeClaire

LAWRENCE A. DeCLAIRE
First Assistant Attorney General
Environmental Law Unit
Natural Resources Section

Senator **Wallop**. Thank you, Dave.
Steve Blomeke.

STATEMENT OF STEVE BLOMEKE, EXECUTIVE DIRECTOR, COLORADO WILDLIFE FEDERATION, WASHINGTON, DC, ON S. 2266

Mr. **Blomeke**. Thank you, Mr. Chairman. Steve Blomeke is my name. I am executive director of the Colorado Wildlife Federation, based in Denver. And I appreciate the opportunity to appear before this committee to present our views relative to S. 2266.

At the outset, we want to indicate that we are not opposed to skiing on public land in our State. We recognize that skiing contributes over $1 billion a year to our State's economy. It should also be recognized that hunting and fishing also are big contributors to our economy, to the tune of over $1 billion a year, as well.

We think that both skiers and other users of public lands can share those resources. The key to this is sharing. We find that more must be done in the decision to permit a new ski area or an expansion of an existing ski area to assure a balance is maintained between the need to provide skiing to the public and the need to provide other uses of our national forests to the public.

We have some concerns about the 55-year term. The extension to 55 years, in our opinion, goes too far. We support a 30-year term. We recognize the great investment needed to develop a modern ski area has made a permit for a longer period necessary. Yet, we know of no banker who has ever complained about the length of the permit being a problem in financing ski development in Colorado. In fact, at the House hearings, an investment banker from Denver said that ski areas were an investment banker's dream. And we think that's indication that there hasn't been a problem in terms of financing existing ski areas.

It has been suggested that skiing only occupies a very small portion of national forest lands and therefore by allowing them to grow, cannot possibly cause a problem. The Colorado Wildlife Federation wishes this were not the case. But in more and more cases, there are conflicts between ski development and wildlife and other natural resources.

There has and continues to be a massive infusion of capital of the ski industry in Colorado. In Colorado alone $128,530,000 was spent in 1985 and 1986 to improve and expand our State's 32 ski areas. This doesn't include proposals for additional new ski areas at Wolf Creek Pass and East Fork near Pagosa Springs, Quail Mountain near Leadville and Adam's Rib near Eagle, as well as Lake Cadamont near Steamboat Springs.

Land use decisions, on a small piece of land, in this case a ski area, can and often do determine what happens to a large area of both public and private land surrounding the area. The critical need for deer and elk habitat in Colorado and in some cases maintenance of migration routes for animals is becoming a growing problem. We are finding that off-site impacts caused by ski-area expansion are forcing decisions that will result in the reduction of the big game herds from present and historical levels.

The Colorado Division of Wildlife already estimates that as many as 30,000 head of deer and elk have been lost in the Eagle Valley near Vail. Similar impacts are occurring in Steamboat Springs and a proposal to expand Snowmass could eliminate the last migration route for the deer and elk herds that inhabit the Maroon Bells wilderness areas near Aspen.

Eagle County, near Vail, is a typical example of what is happening in areas near ski developments. Eighty percent of Eagle County is public land and 20 percent is private. However, 90 percent of deer winter range is on private land while 50 percent of the elk winter range is on the limited private land. In severe winters there is no place for these animals because most of the private land is already developed.

The animals either must be artificially fed in severe winters or the herd size must be reduced. In fact, existing proposals to expand at Vail alone, with the new area at Adam's Rib, could triple the population and triple the number of skier visits by the turn of the century.

In conclusion, Mr. Chairman, the Wildlife Federation believes that the current ski area permit has not been a problem in developing the ski industry to date.

[The prepared statement of Mr. Blomeke follows:]

Colorado Wildlife Federation

Board of Directors

Wally Gallaher
President
Arvada, CO

Gordon Woeffle
1st Vice President
Ft. Collins, CO

A.F.C. "Pete" Lorenz
2nd Vice President
Arvada, CO

Steve Flanagan
3rd Vice President
Colorado Springs, CO

Kathy Fagerstone
Secretary
Lakewood, CO

Frank Justice
Treasurer
Denver, CO

Tom Warren
NWF Delegate
Colorado Springs, CO

Jack Clark
Rifle, CO

Alvin Cutville
Del Norte, CO

Ken Einberg
Denver, CO

Robert Freidenberger
La Junta, CO

D.L. "Red" Fradine
Denver, CO

Kenneth Heuser
Rifle, CO

Barbara Hogue
Brighton, CO

Eric Kelly
Canon City, CO

Bill Miller
Ft. Collins, CO

Marvin Miller
Buena Vista, CO

Chuck Olmsted
Greeley, CO

Bob Peters
Arvada, CO

Craig Rupp
Littleton, CO

Wayne Sandfort
Arvada, CO

Ron Seghers
Grand Junction, CO

John Voelker
Durango, CO

Cathie Zarlingo
Grand Junction, CO

Steve Blomeke
Executive Director

E. Reed Kelley
Resource Conservation
Director

Frances Mullins
Office Manager

STATEMENT OF:

STEVE BLOMEKE
EXECUTIVE DIRECTOR
COLORADO WILDLIFE FEDERATION

BEFORE:

SENATE SUBCOMMITTEE ON
PUBLIC LANDS, RESERVED WATER RIGHTS
AND RESOURCE CONSERVATION

REGARDING:

S. 2266
THE "NATIONAL FOREST SKI AREA PERMIT ACT OF 1986"

JUNE 20, 1986

1560 Broadway, Rm 895   Denver, Colorado 80202   (303) 830-2557

On behalf of the Colorado Wildlife Federation, I appreciate the opportunity to appear before this Committee to present our views relative to S. 2266 regarding the permitting of ski areas on Forest Service lands.

The Colorado Wildlife Federation is a not-for-profit organization dedicated to the wise use and conservation of wildlife and natural resources. We have over 11,000 individual members and supporters, many of whom use Forest Service lands for recreation, including hunting, fishing, hiking and aesthetic appreciation. 90% of our members purchase at least one hunting or fishing license per year. We are the state affiliate of the National Wildlife Federation.

At the outset, we want to indicate that we are not opposed to skiing on public land in our state. We recognize that skiing contributes over $1 billion per year to our state's economy. It should also be recognized that hunting and fishing are also big contributors, to the tune of over $1 billion annually, to our state's economy. We think that both skiing and other users of public lands can share those resources. The key to this is sharing and we find that more must be done in the decision to permit a new ski area or an expansion of existing areas to assure a balance is maintained between the need to provide skiing to the public and the need to provide for other uses of our national forests by the public.

PUBLIC INTEREST

All special use permits are given in the public interest. They are deliberately set up with a reasonable term to prevent a private interest from gaining a permanent handle on large acreages of public land. We find little difference between a 55 year term and the owning of public land by private interests.

The extension to 55 years for the length a permit can be held seems to go too far. By allowing the ski permit to extend for 55 years, will set a precedent for other special use permittees to seek longer term leases on public land. If ski permits are set up for 55 years, we can expect summer homes, church camps, marinas and other special use permittees to come to Congress with similar requests.

We recognize the great investment needed to develop a modern ski area has made a permit for a longer period necessary. Yet, we know of no banker who has ever complained about the length of the permit being a problem in financing ski area development in Colorado. Permits have routinely been extended in the public interest by the Forest Service without problems.

For these reasons we recommend that 30 years be the maximum amount of time permitted for ski areas as being in the public interest.

ACREAGE ALLOWED

We have discussed the problems with the present system of having both an annual use permit and term permit with the ski industry and the Forest Service. The multiple permit system is a mess to administer and a problem for the skiing industry.

The annual use permit does not require compensation to the permit holder for confiscation of any improvements. These permits cover the land which makes up the ski slopes necessary for skiing.

The term permit can be for up to 80 acres and for a maximum of 30 years. We do understand that many of these permits are presently for 20 not 30 years. The term permit requires compensation to the permit holder for termination of all capital improvements that are normally made on the land covered by the term permits.

The present system involving both the annual and term permit seems to encourage only the absolute minimum necessary for skiing is actually used by the permittee. S. 2266 takes off the acreage limit and on page 4, lines 15 to 18 states "shall encompass such acreage as the Secretary determines sufficient and appropriate to accomodate the permitttee's needs for ski operations and ancillary facilities." We have discussed our concern with the ski industry that taking off the acreage limitation as proposed in this bill could lead to greater commercial development on public lands. They assure us their intent is not to make a Disney World or Coney Island type of commercial developments on public land. If that's not their intent, then why not say so in the bill.

The key word here is ancillary facilities. We would suggest that the phrase ancillary facilities be stricken and necessary skiing support facilities replace it. This change would clearly make it possible to locate only necessary skiing operations on public land and we urge adoption of this change.

SKI AREA IMPACTS

It has been suggested that skiing only occupies a very small portion of national forest lands and therefore by allowing them to grow cannot possibly cause a problem. The Colorado Wildlife Federation wishes this were not the case but in more and more cases there are conflicts between ski development and wildlife and other natural resources.

There has and continues to be a massive infusion of capital to the ski industry. In Colorado alone $128,530,000 went into improvements and expansion for our state's 32 ski areas for 1985-1986. This doesn't include proposals for additional new areas at Wolf Creek Pass and East Fork near Pagosa Springs; Quail Mountain near Leadville; Adams Rib near Eagle; and Lake Catamount near Steamboat Springs as well as an estimated several hundreds of millions of dollars in independently financed developments in or near existing ski area developments.

Land use decisions on a small piece of public land, in this case a ski area permit, can and most often do determine what happens to a large area of both public and private lands surrounding the area.

The critical need for deer and elk habitat in Colorado is winter range and in some cases maintenance of migration corridors for animals to get from summer to winter range. We are finding that off-site impacts caused by ski area expansion are forcing decisions that will result in the reduction of big game herds from present and historical levels. The Division of Wildlife already estimates that as many as 30,000 head of deer and elk have been lost in the Eagle Valley near Vail. Similar impacts are occuring in the Steamboat Springs area and a proposal to expand at Snowmass could eliminate the last migration route for the deer and elk herds that inhabit the Maroon Bells Wilderness area near Aspen.

Eagle County near Vail is a typical example of what is happening at areas near ski developments. 80% percent of Eagle County is public land and 20% is private. However, 90% of deer winter range is on private land while 50% of the elk winter range is on this limited private land. In severe winters there is no place for these animals because much of the private land is already developed. The animals either must be artificially fed in severe winters or the herd size must be reduced.

In fact existing proposals to expand at Vail along with a new area at Adams Rib could triple the population and triple the number of skier visits by the turn of the century. If there is not proper land use planning and some restriction on development within critical habitats such as riparian zones and migration routes, viable deer and elk populations and their ecosystems will not continue to function.

Mr. Chairman, the Colorado Wildlife Federation would like to suggest that this growing problem be given some consideration by Congress as you revise the system of permitting ski areas. We respectfully ask that Congress recommend that the Forest Service consider both on and off-site impacts in decisions on ski area permits. Secondly, we ask Congress to require the Forest Service to do a cumulative impact study on the effects of skiing on wildlife habitat in Colorado. This study should be a cooperative effort involving the Forest Service, ski industry, state wildlife management agencies and other users of Forest Service lands.

We find that the solutions to these off-site impacts are difficult and cumbersome. The ski industry is not to blame for all the problems. That's unfair to the ski industry and won't solve the problem. What is needed is cooperation among the Forest Service, ski industry, wildlife agencies and conservation organizations. The Colorado Wildlife Federation is committed to a process that will provide for a healthy ski industry as well as make a place for wildlife in our future. Congress can assist this process by directing the Forest Service to consider off-site impacts and causing a cumulative impact study to be conducted.

We view these as modest proposals designed to assure that the buck doesn't get passed when it comes to mitigation of impacts as a result of a ski permit approval.

It is reasonable to expect the developer to provide a satisfactory plan or solution to deal with off-site impacts in the decision on granting a ski permit.

CONCLUSION

In conclusion, the Colorado Wildlife Federation believes the current Ski Area Permit system has not been a problem in developing the ski industry to date. Yet, it is a problem to administer and some refinements may be necessary. S. 2266 goes further than we believe necessary in correcting the present system. From our perspective 30 years is sufficient for the term of the permit. We are confident the ski industry will survive quite well with a 30 year permit.

Congress should consider language, that as a result of taking off the 80 acre limitation, there will remain limitations on the type of commercial activities to be permitted on public lands.

Consideration needs to be given in dealing with the impacts both on and off-site that ski areas seem to be creating. We are not asking for the ski industry to solve these problems alone but we are suggesting that the Forest Service and other interested parties work in a cooperative manner to help solve the problems to wildlife that we have identified.

I want to thank you for this opportunity to express the Colorado Wildlife Federation's concerns about S. 2266 and about problems that we see arising as a result of the need for the ski industry to grow and the need to conserve wildlife habitat for present and future generations.

Thank you.

Senator WALLOP. Thank you.
Mr. Scott.

STATEMENT OF MICHAEL D. SCOTT, DEPUTY DIRECTOR, CONSERVATION, THE WILDERNESS SOCIETY, WASHINGTON, DC, ON S. 2266

Mr. SCOTT. Mr. Chairman, with your permission, I'll summarize my statement.

Senator WALLOP. The entire statement will be in the record.

Mr. SCOTT. Thank you.

I would like to say at the outset that the Wilderness Society doesn't object to unifying the current cumbersome dual permit system. We do have some specific concerns about the implications of that unification and the 55-year term.

The first one is that if we are going to consider unifying the current permit system and considering some length of term, I think one of the things we need to do is to look at whether the Forest Service does an adequate job of analyzing and mitigating the impacts of ski area development.

In the research that we've conducted, we find that that's not the case, unfortunately. As Mr. Alberswerth pointed out, the Forest Service does a fairly good job of detailing what the impacts of development of a ski area would be on State, private and Federal lands but feels its only responsibility to mitigate is on Federal lands.

Thus, you have a ski area that the Forest Service really is only partially responsible for. As was pointed out by a number of the witnesses earlier, ski area development occurs on Federal, State, and private land. We believe that if this legislation is to proceed, that there ought to be language in it that requires the Forest Service not only to assess the cumulative impacts of a ski area, but also to mitigate those effects regardless of where the impacts occur so that you don't have sort of a piecemeal approach to approval of the ski area so that the Forest Services doesn't say, OK, we will approve our portion of this and then a developer might go to a private entity and say, well, the Forest Service approved it, now you need to approve it. We think it ought to be looked at as more of a package.

Second, we are concerned with section 3(a) of the legislation. That section seems to exempt ski area permits not only from the Forest Service Organic Act, but also the Special Use Permit Act and sets up this creature ski area permit in something of a vacuum outside the bounds of the general law and regulations of the Forest Service. We don't really believe that that was the intent of the legislation and would recommend that portions of that section be stricken.

Section 3(b) also troubles us in that it would allow the Secretary to determine what are suitable lands for skiing purposes without the benefit of the Organic Act or the Special Users Permit Act framework. And over and above that, it allows for capital facilities to be built anyplace within this new ski permit area and that those capital facilities would not only be those appropriate for ski operations but also ancillary facilities. And we are concerned about what constitutes an ancillary facility. Does a water slide on national forest land constitute an ancillary facility?

We would like to see some tightening up of that legislation of that wording so that there is some consistent and fairly tight definition about what an ancillary facility is.

Also I think troublesome to us is the authority given to the Secretary to increase or decrease acreage under the permit or to change operations by only consulting with the permittee. Conceivably, a permit area could increase or decrease by a hundred percent without any kind of consultation with the public, and as Mr. Alberswerth pointed out, we would recommend some sort of a public participation requirement within this new permit.

Last, I'd like to also recommend that since we are creating a permit of value, since the ski industry is asking for this permit that would be able to be used as collateral essentially at a lending institution, that Congress make some determination about what the new value of this permit is or direct the Forest Service to do so in order to ensure in this time of tight fiscal times that it returns a fair market value to the Treasury.

Thank you. And I'd be happy to answer questions.

[The prepared statement of Mr. Scott follows:]

THE WILDERNESS SOCIETY

TESTIMONY OF MICHAEL D. SCOTT, DEPUTY DIRECTOR, CONSERVATION, THE WILDERNESS SOCIETY, BEFORE THE SENATE PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION SUBCOMMITTEE ON S. 2262, A BILL TO PROVIDE FOR SKI AREAS ON NATIONAL FORESTS, JUNE 20, 1986.

Mr. Chairman, members of the committee, my name is Michael Scott. I am here today representing The Wilderness Society, a conservation organization with over 150,000 members nationwide.

S. 2262 would consolidate the existing two permit system for approving ski areas into a single unified permit. In so doing it expands the current 80 acre limitation on long-term leasing of Forest Service land and extends the current 30 year time period to up to 55 years. While The Wilderness Society does not object to unifying the dual permit system, per se, we are greatly concerned with the manner in which the Forest Service analyzes ski permits, its pricing system, and with specific provisions of S. 2262.

I. Forest Service Analysis

S. 2262 would remove the 80 acre "cap" on capital improvements at ski areas and extend the term of a permit from 30 to 55 years. The Wilderness Society believes that before Congress takes this action it should examine whether current Forest Service environmental review procedures are adequate to handle a 55-year permit term. We contend that they are not.

1400 EYE STREET, N.W. WASHINGTON, D.C. 20005
(202) 842-3400

After a review of some of the more controversial pending ski area permits around the country, we find a disturbing trend. The Forest Service, in its environmental review of proposed ski areas, only requires mitigation of impacts on Forest Service land. This narrow approach to environmental analysis and mitigation results in Forest Service decisions that produce unacceptable environmental consequences.

A good example of this is the proposed Adams Rib ski area near Vail, Colorado. The Forest Service determined that the environmental effects of ski area development on its land were acceptable. It then noted that substantial and important wetlands on private land adjacent to the National Forest would be destroyed by development. In spite of current policy directing federal agencies to protect wetlands the Forest Service stated that since the wetland area was not National Forest it had no responsibility to prevent its destruction. The Forest Service, in its EIS, hoped that Vail County or the Army Corps would take responsibility. Adams Rib was litigated by a number of groups. The judge, ruling in favor of the Forest Service, stated that the law required the Forest Service to display the consequences of its actions on other jurisdictions but not necessarily do anything about them.

We believe the Forest Service should be required to do something about the consequences of its decisions. The Forest Service is, almost always, the "lead agency" in ski area permiting. As such, its actions will determine what happens to the quality of the environment around a ski area. The Forest Service must analyze and mitigate the cumulative effects of its decisions.

A recent decision by the Forest Service is being hailed by some as evidence that the Forest Service does consider cumulative environmental effects before making ski area decisions. A permit for Burnt Mountain, an expansion to Snowmass in Colorado, was overturned by the Regional Forester because it failed to adequately mitigate wildlife and traffic effects. It should be pointed out that it was only when the Colorado State Division of Highways and the Division of Wildlife objected to the permit that the Forest Service took any action.

To assure that the Forest Service will take responsibility for determing the cumulative effect of a proposed ski area and do something to mitigate those effects, we recommend the following language be added to Section 3(a):

> Section 3(a)(2) - The Secretary shall issue or renew such a permit only upon finding that issuance of the permit is in the public interest, is consistent with the principles of multiple use and sustained yield, and is best adapted to conserve and utilize in the public interest the public lands subject to the permit. In making such determination, the Secretary shall consider the applicant's overall plan for skiing and associated residential, commercial, and other development, whether on National Forest System lands or otherwise, the consistency of such overall plan with local or state land use plans and policies, and the effect thereof on water, air, land, and biological resources, and local or state programs to protect such resources.

II. Fair Market Value

The ski industry contends that this legislation is necessary for financing of new areas and expansion of existing areas because Industrial Revenue Bonds are no longer available to them and the current dual permit system is not sufficiently secure to be used as collateral for a commercial loan. The industry contends that the 55-year permit will remedy this.

Before Congress considers converting from the existing system it should determine if the current complex formula for lease fees results in a fair return to the Treasury and what added value this new permit creates. No one currently knows the answers to either of these two questions. The only study done on the subject was in 1982 by the GAO and it concluded there were problems with the fee formula that should be addressed.

In the current era of fiscal austerity when fees are being considered just for entry to the public lands we believe it reasonable for Congress to closely scrutinize all such proposals as this. Accordingly, we recommend that the Committee request GAO to analyze both the current fee system and the impacts of this legislation. We believe such an analysis could be conducted in a timely enough fashion so as to not hinder the passage of permit legislation this Congress. We recommend that a provision be added to this legislation requiring the Forest Service to charge fair market value. We have drafted such a provision which may be found in III. C of this testimony.

III. Specific Provisions of S. 2262

A. Section 2(b) - Purposes

This Section sets out the purposes of the legislation and defines them as being consolidation of ski area permits for financing and acreage reasons. It does not balance this consolidation with any statement that issuance of these new permits should be in the public interest and consistent with the principles of multiple use and sustained yield. As such we recommend Section 2(b)(3) be amended as follows:

> Section 2(b)(3) - provide a permit which will be more commensurate with ensuring that the long-term construction, financing and operation needs of ski areas on National Forest lands established from the public domain are met in a manner consistent with use of such lands in the public interest and consonant with principles of multiple use and sustained yield.

B. Section 3(a)

We find this Section particularly troubling in that it exempts ski area permits from the provisions of the Forest Service Organic Act (30 Stat. 34) and the Special Use Permit Act (16 U.S.C. 497). This means that a ski area permit would exist outside the bounds of the general law and regulations of the National Forests and the law and regulations regulating special use permits. Arguably it would allow for ski areas to become the dominant use within the permit area without regard for the other use considerations in the Forest Service Organic Act. Since it would be outside the provisions of the Special Use Permit Act, new regulations, perhaps quite different from those regulating other special uses, would be promulgated. We do not believe this to be the intent of this legislation. We, therefore, recommend the following language be substituted:

> Section 3(a) - The provisions of the Acts of June 4, 1897 (30 Stat. 34) and March 4, 1915 (16 U.S.C. 497) shall apply to the issuance of ski area permits hereunder, except as specifically modified hereby. The issuance, administration, and renewal of special use permits for the operation of commercial nordic and alpine ski areas on National Forest System lands established from the public domain shall henceforth be subject to these provisions:
>
> (1) The Secretary of Agriculture (hereinafter referred to as "the Secretary"), is hereby authorized to issue permits, (hereinafter referred to as "ski area permits") for the use and occupancy of suitable lands within the National Forest System for commercial nordic and alpine skiing operations and purposes.
>
> (3) Such permits shall be issued or renewed pursuant to the regulations to be adopted by the Secretary as provided in subsection (c), and shall require payment of fees commensurate with the fair market value of the benefits received by the permittee. Fees for each such permit shall be reviewed and adjusted by the Secretary no less often than every five years, consistent with the regulations to be adopted as provided in subsection (c).

C. Section 3(b)

Section 3(a) exempts ski area permits from the Forest Service Organic Act and the Special Use Permit Act. Section 3(b) would allow the Secretary to determine what are "suitable" lands for skiing purposes without the benefit of the Organic Act and the Special Use Permit Act. There is no requirement that the Secretary make any public interest finding or balance ski area permits against other multiple uses. The only requirement is the 4 provisions found in Section 3(b)(1)-(4) which generally set out the term, acreage requirements, and modifications thereof.

Current law restricts capital facilities to 80 acres. Permitted facilities have generally been those that are principally related to ski operations. Section 3(b)(2) would broaden types of facilities that could be developed on National Forest land by requiring a permit to "encompass such acreage as . . . appropriate . . . for ski operations and ancillary needs". Thus we potentially could have condominiums on Forest land if they were an "ancillary" need. This is overly broad.

Also troublesome is the authority given to the Secretary to increase or decrease acreage under the permit or change operations by only consulting with the permittee. Conceivably a permit area could be increased by 100% without any public input.

Further, we are concerned about what happens to permits which change hands during the 55-year term. We understand current Forest Service policy states that permits are not transferable. However, most permits are held by corporations. If a corporation is sold it still holds the permit even though there may be a substantial change in management direction.

To remedy the above concerns we recommend the following language for Section 3(b):

> Section 3(b) - A ski area permit (a) shall be issued for a term consistent with the public interest

> which is adequate, in light of the permittee's anticipated investment, to allow the permittee to secure reasonable terms for commercial financing of that expected investment, and to have a reasonable opportunity to amortize such investment, but in no case for more than fifty years; (b) shall encompass such acreage as the Secretary determines sufficient and appropriate to accommodate the permittee's needs for ski operations and facilities necessary for ski operations; (c) may be renewed by the Secretary on the same conditions and under the same procedures as for issuance of such a permit; (d) may be cancelled by the Secretary in whole or in part for any violation of the permit terms or conditions, for non-payment of permit fees, or for failure to operate in the public interest; (e) shall not be construed to convey to or create in the permittee any interest in land, and; (f) shall be reprocessed if a change in ownership of a ski area, or a change in the controlling ownership of a permittee, occurs regardless of the number of years remaining on the current permit. The acreage under permit may be increased or decreased from time to time by the Secretary to accommodate changes in plans or operations. Any increase of more than 20%, or if cumulative increases over time are determined significant, shall abe processed as a new application.

D. Section 3(c)

This Section requires the Secretary to convert all existing permits to permits issued under this legislation within two years. It may be that some ski operators prefer the existing system. As such they should be given a choice and we recommend the following language.

> Section 3(c) - Within one year of the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act, and shall on request of any permittee, within two years of the date of enactment of this Act, convert that permittee's existing ski area permit or leases on National Forest System land into permits which conform to the permit term and other provisions of this Act.

IV. Conclusion

The Wilderness Society believes that with the changes we propose, this legislation will adequately address the needs of the ski industry and reflect the concerns we have expressed here to provide for sufficient environmental and economic safeguards. We are confident that this compromise will protect the interests of all parties.

Thank you Mr. Chairman, I would be happy to answer any questions.

Senator **Wallop**. Thank you. I would make an observation here that I cannot make an intellectual connect between the 55 years length of term and 20 years of endangered wildlife, 5 years of endangered wildlife and 1 year endangered wildlife. It seems like if that exists, 1 year is as bad as any other thing, and there is an assumption here that nothing can be done. I don't see what the length of term has to do with that.

Mr. **Alberswerth**. Frankly, Senator, this is a problem that we have been concerned about for some time, regardless of the length of the tenure permits.

Senator **Wallop**. That is my point. That is my precise point. There is something else that is at issue besides the length of term and you are attacking it through the length of term. I don't think that will resolve the problem.

Mr. **Alberswerth**. We see this as an opportunity to address that particular problem.

Senator **Wallop**. Well, right. But not through protesting about the length of term, which is irrelevant to the problem you are describing. If that exists, if it does, 6 months or more in a year because you go through a whole animal cycle, including migration and other things. But I mean the length of the term is not relevant to the concern that you are expressing.

Mr. **Alberswerth**. But we feel that there are fewer opportunities with the 55-year permit term if you do away with any periodic opportunities to review the overall development.

Senator **Wallop**. But there is no suggestion that is the case. And that is not the point, really. The point of a lease is private and the public world, and I have been in both public and private leases—leases contain, first, almost without exception, requirements that you live up to the standards contained within the lease. Therefore, you can address that problem right there.

Second, that it may be terminated by either party if one party doesn't live up to it. That is always in the leasing process. It is not unusual at all to have periods in terms of review that take place within a lease document. That is a matter of legal competence, not length of time.

I share the concern that you are having. But I don't think the length of it is related to the problem that you're addressing.

Mr. **Blomeke**. I think if I may add, I think the dual permit where it's a year-to-year-end term has tended to concentrate the kinds of development; in other words, the ski industry on the year-to-year thing cannot put facilities that they can't use—in other words, they are not going to invest in that kind of thing. We are willing to go along with the consolidation into one permit. But going to anything beyond 30 years establishes the precedent that perhaps other users of special use permits are going to come in and want 55 years as well, and I think that's a bad thing to do.

Senator **Wallop**. That is not what was contained on your statement, though, which is the point that I was making. I have got to leave. I want to ask Senator Evans to take the chair and also to thank him very much.

Senator **Evans** [presiding]. That is fine. I am delighted to do so.

Let me, just as you are leaving, follow up on that one concern. In 20-some years of public elective office, I have run across that argument so many times and I guess I must say once again I thoroughly and totally rejected an argument against something based on what might happen at some future date in terms of somebody else coming in and seeking legislation. Let's take legislation bit by bit, piece by piece, what it says and not what might happen with some church camp or somebody else coming in.

This is a specific piece of legislation aimed at a particular group, and it is either good or bad on that basis, not what might happen at some future date with somebody else coming in. Fight that battle when it comes. All I can say is that is not much of an argument, at least as far as I am concerned.

If we could suspend for just a moment. Senator Matsunaga has just come in. We welcome him to the witness table, and I would like at this point to hear Senator Matsunaga's testimony.

Senator Matsunaga, we welcome you to the committee and your entire statement will be placed in the record and we would like to hear what you would like to say.

STATEMENT OF HON. SPARK M. MATSUNAGA, A U.S. SENATOR FROM THE STATE OF HAWAII, ON S. 2320

Senator **Matsunaga**. Thank you, Mr. Chairman.

It is my pleasure to join with the senior Senator from Hawaii, Mr. Inouye, in supporting S. 2320, a bill to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes.

In doing so, I would like to acknowledge the presence of Mr. William Tam, deputy attorney general, State of Hawaii, and extend him a warm welcome and thank him for his appearance before this subcommittee today. His leadership and tireless efforts toward resolving the problem which S. 2320 proposes to resolve are highly commendable.

Mr. Chairman, on Thursday, April 17, 1986, when my colleague, Senator Inouye, and I introduced S. 2320 in the Senate, I made a floor statement in which I emphasized the role that cooperation and mutual benefit played in the development of this bill. This morning I would like to emphasize those points again.

S. 2320 is a bill which was developed in the spirit of cooperation and mutual benefit among the three parties involved in the proposed land exchange described in our measure. These parties include the State of Hawaii, the James Campbell Estate, and the Federal Government by its National Park Service. Significantly, all three parties are supportive of our proposal.

Each of the concerned parties in the proposed land exchange has a special interest in a particular parcel of land. But acquisition of that particular parcel is dependent upon the expressed agreement of another party, in order to consummate the exchange—an exchange which will prove to be beneficial to all parties involved.

The James Campbell Estate owns land which is adjacent to the Hawaii Volcanoes National Park and which has been of considerable interest to the National Park Service for quite some time. The land is a virgin 'ohi'a and fern rainforest and has been identified by the Park Service as its No. 1 acquisition priority, in order to protect the Thurston Lava Tube and Chain of Craters area.

The land also serves as a natural habitat of at least nine different endangered species, including the rare Hawaiian o'u bird.

It is important to note here that the enabling legislation for Hawaii Volcanoes National Park specifies that even though the Campbell Estate-owned land is authorized for inclusion in the park by Secretarial Order—that is 16 U.S.C.A. 391b—that the land can only be acquired by donation.

The Campbell Estate has already consented to exchange the land with the State of Hawaii for other lands where geothermal exploration and development can be conducted by the estate without jeopardizing the integrity of the park. The State of Hawaii has, in turn, consented to donate the virgin forest land to the National Park Service in exchange for excess or surplus U.S. Government real property in Hawaii.

Mr. Chairman, it has been through a long process of discussions and negotiations that all parties have arrived at what they deem to be a most equitable and mutually beneficial agreement to consummate the land exchange described in S. 2320.

Mr. Chairman, I urge you and your subcommittee to endorse their proposal by reporting favorably on S. 2320.

I thank you, Mr. Chairman.

Senator EVANS. Thank you, Senator. And this seems like a remarkable—it is always remarkable to find a willingness to get a land exchange between two parties. To find a willingness to run a triple play is just about as rare as triple play is in baseball.

I do have one question which really isn't addressed to you because you have indicated in your testimony that the State of Hawaii, the James Campbell Estate and the Federal Government by its National Park Service—significantly, all three parties are supportive of our proposal—today in the testimony of Denis Galvin, Deputy Director, National Park Service, they say they oppose the passage of S. 2320.

Senator MATSUNAGA. The Park Service?

Senator EVANS. I suspect they are speaking through the voice of the Park Service, but the echo chamber is OMB. I can't guarantee that, but I would be willing to lay a little money on it. And I think that it might be useful while the Senator from Hawaii is here to have Mr. Galvin come forward and we might as well hear from him.

Senator MATSUNAGA. Yes, I would like to have the chairman pose the question.

Senator EVANS. Mr. Galvin, would you care to comment on your testimony which says we oppose the enactment which presumably is based on the last sentence in his testimony which says, "However, the General Services Administration opposes such earmarking of excess or surplus Federal land for disposition in the manner inconsistent with the Federal surplus property laws. We therefore defer to the views of that agency as the enactment of S. 2320."

Mr. GALVIN. Yes, Mr. Chairman. That is correct. The Park Service position is in opposition to the enactment of S. 2320 because the General Services Administration opposes earmarking of excess of surplus Federal land for disposition in a manner inconsistent with the Federal surplus property laws.

We therefore defer to the views of GSA as to the enactment of S. 2320. I do not know that GSA has taken a position on it.

Senator EVANS. You say you do not know whether GSA has taken a position on the bill?

Mr. GALVIN. No. I do not know that.

Senator EVANS. Well, you said that GSA opposes such earmarking.

Mr. GALVIN. They normally oppose the earmarking of Federal surplus property in this manner.

Senator EVANS. Then, if they normally do that, and you have not inquired of them as to whether they specifically do or do not endorse or oppose this bill, how in the world can you then come before the committee and say that you oppose enactment of this bill based on GSA's normal policy?

Mr. GALVIN. We are assuming that they will oppose the specifics in this bill.

Senator EVANS. Did you ask them?

Mr. GALVIN. We do not have their position at this time.

Senator EVANS. Let me ask the question. I am not sure I can ever get this answer out of any agency of the administration and I can understand if loyalty requires a common front.

Did the National Park Service recommend to other agencies, including OMB, that this exchange be carried forward?

Mr. GALVIN. I believe the Senator's testimony in terms of the local negotiations is correct. That is, we certainly find this a desirable piece of property for addition to the park.

Senator EVANS. Did you recommend to OMB that this legislation be supported?

Mr. GALVIN. Yes, we did.

Senator EVANS. And OMB told you that they would not support it?

Mr. GALVIN. They deferred to the views of GSA.

Senator EVANS. But they did not ask GSA, or did they tell GSA?

Mr. GALVIN. I believe they may have asked GSA. I don't know that the GSA position is——

Senator EVANS. So this is quite clearly OMB's fine hand. That's my term, not yours.

Well, I think that clears up the concern that I am sure Senator Matsunaga in testifying indicated that there was three-way support of this trade, and I wanted to make sure that that was accurate and that you did support it. I think we will have to have a different witness up here to really find out where we go from here.

Senator MATSUNAGA. And, Mr. Chairman, we do have a letter in writing addressed to Mr. Susumo Ono, chairman of the board of land and natural resources of the State of Hawaii from Mr. Brian Harry, who is the Director of the Pacific area of the U.S. Department of the Interior, which says:

> DEAR MR. ONO. Regarding your letter of October 10, 1985 and the possible land exchange at Kahauale, Hawaii, should your Campbell/State of Hawaii land exchange materialize, the National Park Service is interested in Tract 22 for inclusion in Hawaii Volcanoes National Park.
>
> We would consider a subsequent exchange of lands with the State to accomplish this.

And it was on that basis that we proceeded. It was reliance upon the written word of the U.S. Department of the Interior. Of course, I am happy to know that the Park Service still supports this. Many a time, as you know, the OMB can come out with restrictions which are based strictly on financial considerations, and here—because it merely will be an exchange of property with no cost—I see no reason why the OMB should be concerned.

Senator EVANS. I do appreciate your testimony and I appreciate Mr. Galvin's candid responses. I can assure the Senator from Hawaii that we will be making further inquiry into the Office of Management and Budget and General Services Administration.

While indeed normally GSA likes to use the Federal surplus property laws to exchange lands or to get rid of lands, there are hundreds of examples where in the best interests of all concerned, they do it in other ways. And I cannot believe that this is a very strong reed on which they can lean.

Senator MATSUNAGA. Thank you, Mr. Chairman, for taking me out of order and I apologize to the other witnesses.

Senator EVANS. That is quite all right. Thank you.

You will be back up here very shortly, Mr. Galvin, but if I could back temporarily to the three witnesses—and maybe to help me out, much of the concern as I have heard from all witnesses, not as much concern about a merging of the permit as the length of term of the permit. The other specific additions that have been asked for by each of you are interesting and valuable.

I do have a little problem with how can we really go about the question of offsite or private land development that may be associated with some of the permitting and the mitigation for offsite development. Can you give me some other examples where this is a requirement where we are engaged in the establishment of a permit through a Federal agency and a private operator and the land obviously is Federal land—otherwise we would not have a permitting system—that the requirements laid upon that operator for management on that public land takes into account activities that may occur in adjacent private lands and the development on private lands and, as a result, the building of mitigation based on that.

Do you have other examples of where that is done?

Mr. SCOTT. I think that the 404 permit process is one example.

Senator EVANS. Which?

Mr. SCOTT. Section 404 permit process is an example of where you might have an event occur in one place and as far as a couple of hundred miles away if the effects of, say, siltation or other sorts of things that might happen from, say, a dredging operation or a dam were unacceptable someplace else, the Army Corps will deny a permit.

Likewise, I think what we are arguing here is——

Senator EVANS. But that is for actions that do take place on either the Federal land or under the control of the Federal agency in terms of the permitting system, not for actions that take place elsewhere or on private land.

Mr. SCOTT. But in this case the action does take place on Federal land and in that typical ski permit operation would be asking for a ski facility to be constructed on a mountain which is typically

Forest Service land, and then typically you have the ancillary development taking place on private land or State land in the valley bottom.

What we are asking for, urging, is that the Forest Service when it does its analysis of the environmental consequences of development, it does not just look at forest land, but it looks at, say, the whole valley as well.

Senator EVANS. Let me pose a circumstance where you are 15 years into a 30-year permit. The ski area has a certain number of lifts built on Forest Service land. It has private land at the base and decides to add another hotel or two hotels, or more downstream, or private facilities. You have a current permit; you are halfway through the current permit. Under your assertion, clearly that could have adverse impacts on reducing winter range for animals or all other kinds of the impacts that would be there at the beginning of a permit system.

Would you suggest then for consistency that an operator be denied the opportunity to build anything during that 30-year permit period on private lands without coming back for modification of permit?

Mr. ALBERSWERTH. No; sir, I think that what we are after here is, first of all, to give the public, local governments, Forest Service, the developer, an opportunity to look at what the long-term development plan or scheme is for a particular area, anticipate those impacts, and not necessarily deny at all a new facility, but to provide an opportunity for the impacts from that new facility if it's on an elk winter range or if a highway has to be constructed and interrupts a migration corridor, to in some fashion require that permittee who is responsible for that development to in some fashion mitigate the damage.

We are not looking here necessarily at an opportunity to deny development from taking place. It's just that many developments—in fact, we believe that the fact that ski areas appeal to people who like the outdoors, who like nature, that sort of thing, that there is a real built-in advantage for ski areas, many of which want to go to four season resorts to protect wildlife habitat.

So it is the kind of thing that we think could be advantageous to everybody concerned. The problem you have now is that the Forest Service, the local governments, the State governments, kind of sit around in a circle and point the finger at each other for being responsible for taking care of these impacts, and they don't get taken care of.

Senator EVANS. I just wanted to, though, elicit how it would work. I can understand at the beginning when you try to take into account the long-range planning, but I guess I would suggest that none of us are smart enough to look ahead 30 years, even 15 years, in a rapidly changing kind of environment. So there will be changes which occur.

And during that permit period—or what would you do at the beginning of the permit period? Say that only a certain number of hotels at a certain place in the private land outside of the forest would be allowed for the next 30 years?

Mr. ALBERSWERTH. I think what you could do is identify the areas that might be identified as, say, critical wildlife habitat and perhaps either in some fashion put those off limits to development, or if development is necessary on those areas, identify other areas where you might be able to substitute winter range.

That is one example of how you might proceed.

Senator EVANS. What about this situation that I just mentioned where you get halfway through a permit period and people on private land decide that it is appropriate or necessary in order to meet the needs of that particular area, to build additional facilities.

It seems to me that under what you are suggesting, those additional facilities may well go beyond what you would like to see, but you are in essence denying someone the opportunity to use private land for up to 30 years.

Mr. BLOMEKE. We have a situation right now in Colorado at Snowmass where the initial permit for Snowmass allowed for an expansion onto what is called Burnt Mountain. The Forest Service supervisor issued a decision on that, allowing the expansion to go forward.

Our group and the State Division of Wildlife and Natural Resources and the State highway appealed that decision because of those offsite impacts: One, to do with the highway up there, and the second to do with the elk migration route.

Senator EVANS. Who won the appeal?

Mr. BLOMEKE. The regional forester sent it back saying that the mitigation had been provided for; in other words, overturned the supervisor's decision.

Senator EVANS. Had not, or had?

Mr. BLOMEKE. Had. In other words, he had not done an adequate job of mitigating the results of the expansion.

What we would suggest, I guess, is that in those kinds of circumstances that those kinds of questions be dealt with before that kind of expansion is allowed.

Now, Pitkin County which is the county in Aspen, the ski developer, Aspen Skiing Corp., our group and the State are sitting down now trying to work out a way to mitigate those results. And that is the only thing that we are suggesting is that both skiing and wildlife interests need to work together to try to deal with these things, and we think that the offsite impacts ought to be looked at by the Forest Service in the decision to grant the permit, because if it's not, the decision gets pushed onto someone else and it never gets handled.

Senator EVANS. In this case, however, you are talking about an expansion that is occurring on Forest Service land; isn't that correct?

Mr. BLOMEKE. Right, but has impacts that affect wildlife and other resources offsite.

Senator EVANS. What has Snowmass decided at this point that they did not need that additional, or did not want to do anything on Forest Service land, but that the wanted to build another hotel on private land? I might have an impact. It certainly would have an impact.

Mr. BLOMEKE. Right.

Senator EVANS. Do you suggest that they—at that point what should they do? I mean under what you are proposing, would the ask for a modification of the permit? Would they be denied the opportunity to do that? Would somebody else who is not even a permittee, but who has a private piece of land close to the ski area and wants to build an additional hotel or facility there, not be able to build it because somehow there was a requirement for offsite mitigation or denial of additional facilities for the permittee?

Wouldn't you in some respects affect an ability of someone else, not the permittee, from even going ahead and utilizing their own private property?

Mr. **Blomeke**. Right. But I think that in that circumstance, that in the initial permit what we are going to do in that area—generally, at least in Colorado, a lot of those counties, it is public land.

Senator **Evans**. I understand, and that is a different thing. I am talking about private land now.

Mr. **Blomeke**. We would think in the initial decision on what the permit is going to require, that we ought to look at those things so that we can anticipate and plan for them so that we can designate certain areas for wildlife and certain areas for hotel development if that is necessary.

Mr. **Alberswerth**. What you posed here as an example is currently in fact what happens. The hotel would probably go in and there may well be impacts on wildlife and there would be no control or no opportunity to mitigate those impacts.

What we are saying is that at the outset, when the permittee comes in and wants an expansion to go onto a new area of National Forest lands, that in the analysis of what the impacts will be from that particular development, that the Forest Service be permitted to require the permittee to take into account those offsite, off-national forest impacts and be required to mitigate them in some fashion, in a long-term view of what might happen.

The problem that you have in a place like Colorado right now is just unplanned scattered developments for which no thought has been given to how to mitigate those impacts.

Senator **Evans**. I understand the problem. What I am trying to get at is whether the solution is not fraught with all sorts of problems as well.

In essence: I own a piece of property close to a ski area. You are under this kind of mitigation requirement. It is not a particularly good piece of property, but it is going to be limited. I decide that I am going to create some fancy plans for a 15-story hotel and condominium unit; go to the permittee and say this is what I am going to do, and you say you can't do that. Under my permit we are not allowed to build that. And I say, "Fine. Pay me."

Aren't you taking the possibility of use of his own private land?

Mr. **Alberswerth**. I think one of the things we envision with our idea here is that at the outset, in fact, lands that are private lands that are identified to be critical, say, for wildlife habitat, one of the things the Forest Service may require is for the permittee to assure that those lands will not be developed, perhaps by acquisition, perhaps by exchange with the Forest Service or some other arrangement, so that the landowner would in fact be compensated.

Senator **Evans**. You are saying in essence that the combination of forest lands, 404 permitting, State, local, county plans, travel and recreation plans, A95 process, EISs, are insufficient in combination?

Mr. ALBERSWERTH. Well, it certainly hasn't worked to date in Colorado.

Mr. BLOMEKE. We're talking about a couple of new areas that we have discussed as an example on development of condominium or homes, that there be a fund established from lift tickets; that perhaps some of that money could be earmarked for wildlife mitigation. And some members of the ski industry have been interested in that because they see also that wildlife and other kinds of year round recreation are important to their industry, too, because they need to keep the ski facilities open year round.

So there can be a cooperative effort. I think that the Forest Service could take the lead in trying to make some of those things happen.

Senator EVANS. OK. Well, it was very interesting and I appreciate your testimony. There are some interesting ideas and some stormy waters to get through to implement some of those.

Thank you very much.

I would announce that Senator Hecht has a statement in relationship to the bill which we have just been discussing. He is a cosponsor.

He indicates in his statement that he supports the 55-year term for the permit system:

> I understand the importance of a long-term commitment and know from experience in business that lending institutions are hesitant to loan money when there is a regulatory uncertainty concerning the project.

Then he requests that the accompanying letter from Lee Canyon Ski Area be included in the hearing record. His testimony and the letter will be included in the record.

[The prepared statement of Senator Hecht on S. 2266, with the letter referred to, follows:]

Chic Hecht

STATEMENT OF SENATOR HECHT ON NATIONAL FOREST SERVICE SKI AREA PERMIT ACT

Mr. Chairman, I am a co-sponsor of the National Forest Service Ski Area Permit Act, and I support a fifty-five year term for the permit system. I understand the importance of a long term commitment, and know from experience in business that lending institutions are hesitant to loan money when there is regulatory uncertainty concerning the project. I request that this letter from Lee Canyon Ski Area be included in the hearing record.

SKI LEE

LEE CANYON SKI AREA
LAS VEGAS, NEVADA

June 11, 1986

The Honorable Chic Hecht
United States Senate
Washington, D.C.

5c

My dear Senator Hecht:

We deeply appreciate your interest in S.2266, the National Forest Service Ski Area Permit Act, as displayed by your sponsorship of the legislation.

We note that during the hearings on the Act in the House of Representatives (H.R. 4489) held on May 15, the Forest Service, while generally in support of the proposed changes to the Permit System, opposed the 55 year term included in the bill on the grounds that private financing has been available to ski areas therefore the extended term is unnecessary.

We take strong exception to this position. Financing for ski area improvements is *very* difficult to obtain, particularly for those areas, mainly in the West, where the entire operation is on Forest Service land. The *major* obstacle encountered in attempts to obtain loan commitments is the form and *term* of the permit. A long term commitment by the Forest Service will provide the greater security necessary to obtain the long term financing necessary for large dollar capital improvements required by the ski areas operating on public lands.

Once again, we thank you for your support. In the Senate consideration of the National Ski Area Permit Act of 1986, we request your emphasis on the importance of the 55 year term.

Very truly yours,

Kenneth Highfill

Kenneth Highfill,
President

Matt Forrester,
Business Manager

Lee Canyon Ski Lifts, Inc.

Mailing Address: 1552 WINWOOD ST., LAS VEGAS, NEVADA 89108
TELEPHONE 702/872-5462 • 702/878-6160

STATEMENT OF HON. DANIEL J. EVANS, A U.S. SENATOR FROM THE STATE OF WASHINGTON, ON S. 2351

Senator EVANS. With that, let us now call up for S. 2351 and S. 2320 Mr. Robert Pierce, Administrator, National Park Trust—I am sorry. Let's get the administration first. I do understand that Max does have another appointment and Mr. Galvin from the Park Service. Would you please come forward?

This will be dealing with S. 2351 and S. 2320.

I do have a statement regarding S. 2351. In view of the many bills and the time we have, I will place it into the record. I must say that is in the nature of a history of the ups and downs of the Olympic National Park and the preservation of the Olympic Peninsula.

It is ironic to note that in 1897, President Grover Cleveland, as one of his last official acts, proclaimed a number of forest reserves, of which the largest by some distance was the Olympic Forest Reserve, placed under government custody 2.2 million acres, nearly two-thirds of the entire Olympic Peninsula.

At that time, of course, he had taken a bold action. The editorial pages of the western newspapers broke out with feverish essays in which Cleveland was damned as a lame-duck saboteur out to wreck the system that had made this country great. The mildest adjective applied to the outgoing resident was impetuous.

But in succeeding years, as we come down to current history, we all know that a lot of that 2.2 million acres was given away; a lot of it was reacquired; President Theodore Roosevelt established a national monument, and we have had enormous controversy over the appropriate use of the forests and the mountains and the other area of the Olympic Peninsula and especially the Olympic National Park.

I would like to get to testimony and some questions of the administration. I should say in advance that I have spent almost 47 years hiking and climbing throughout the Olympic National Park, traveled virtually every one of its trails, climbed most of its mountains, have a very special view of the Park, and so will admit at the beginning that I will be probably prejudiced in terms of what we do in preservation of that Park.

So with that, who wants to go first?

[The prepared statement of Senator Evans on S. 2351 follows:]

STATEMENT OF SENATOR DANIEL J. EVANS
REGARDING S. 2351, A BILL TO MODIFY THE BOUNDARIES OF THE OLYMPIC NATIONAL PARK

June 20, 1986

On April 22, 1986 I joined with Senator Gorton to introduce S. 2351, a bill to revise the boundaries of the Olympic National Park in Washington state. S. 2351 incorporates the recommendations of the National Park Service and the National Forest Service for modification of their common boundaries. The bill also authorizes two minor additions to the park as recommended by the National Park Service.

This bill represents the continuation of a process which began over 90 years ago to establish and refine the boundaries of the Olympic National Park. I participated in this process when I was Governor of Washington. The history of this process is a paradigm of the history of the conservation movement in the United States, and I think it bears repeating here.

Two hundred years ago a British fur trader, John Meares, first glimpsed a glistening white peak rising from a jumble of mountains stretching across the horizon. He named it "Mount Olympus" after the mountain home of the Greek gods. A few years later, Captain George Vancouver ratified the choice with great enthusiasm.

The Olympic mountains slumbered untouched for the next hundred years. Indian legends of great central valleys teeming with game finally awakened the curiosity of early settlers. Less than one hundred years ago, the first serious explorers penetrated the wilderness. They reported no central valley but rank on rank of mountain peaks stretching in all directions, girded by forests as impenetrable as an Amazon jungle.

On Washington's Birthday, 1897, President Grover Cleveland, as one of his last official acts, proclaimed a number of forest reserves, of which the largest, the Olympic Forest Reserve, placed under government custody 2,188,800 acres, nearly two-thirds of the entire Olympic Peninsula, a wilderness empire of rock and grassland, forest and glacier. The editorial pages of Western newspapers broke out with feverish essays in which Cleveland was damned as a lameduck saboteur out to wreck the system that had made this country great. The mildest adjective applied to the outgoing President was "impetuous."

Soon after President Cleveland established the Olympic Forest Reserve, his Secretary of the Interior instructed Henry Gannett, chief geographer of the United States Geological Survey, to survey the reserve. Gannett travelled to the Pacific Northwest, where he hired timber-cruiser Theodore Rixon and surveyor Arthur Dodwell to undertake the task. Three years later, the Dodwell-Rixon party came out of the woods with topographical maps of ninety-seven townships. Rixon had a cruise estimate for each township. According to the Dodwell-Rixon Report published in 1902, there were 2883 square miles of land growing merchantable timber in the reserve, totaling 61,000,000,000 board-feet of timber.

While Dodwell and Rixon were studying the potential of the reserve President Cleveland had created, Congress and President McKinley were giving it away. Congress suspended Cleveland's proclamation for nine months, and passed the Forest Lieu Act. The Forest Lieu Act allowed any person with a lawful claim to land within a reservation to select and acquire full ownership of a tract of land of the same size anywhere in open public domain lands. President McKinley, on the advice of the Commissioner of the General Land Office, issued proclamations in 1900 and 1901 reducing the size of the reserve by 750,000 acres. Much of the land removed from the Olympic Forest Reserve by President McKinley was taken under the provisions of the Forest Lieu Act.

Conservationists intent on protecting the Olympic wilderness found champions in President Theodore Roosevelt and Gifford Pinchot, his Chief Forester. In 1905, at the urging of Pinchot, President Roosevelt transferred the national forest preserves from the Department of the Interior to the Department of Agriculture. In 1909, just two days before leaving office, President Roosevelt issued an executive order proclaiming Mount Olympus National Monument. Theodore Roosevelt's Executive Order closed 620,000 acres, half of it forested, to hunters, loggers and miners.

Throughout the Taft administration there was agitation in Congress to get the monument reduced in size, or to have the regulations changed to permit mining and selective logging. Nothing came of these efforts. In 1915, however, President Woodrow Wilson issued three separate executive orders reducing the monument almost in half. Of the 328,000 acres left in the monument, approximately 259,000 acres were above the timber line.

In the 1930s the pendulum swung again. On June 29, 1938, President Franklin Roosevelt signed a bill creating a National Park of 680,000 acres. The bill allowed the President, after consultation with the U.S. Forest Service and the National Park Service, to expand the park to 892,000 acres. By the time President Roosevelt signed legislation establishing the Olympic National Park, the first trickle of recretational hikers started their own explorations. Boy Scouts, mountaineers and future Mt. Everest climbers were to first experience the joy of wilderness among these peaks.

On January 2, 1940, President Roosevelt proclaimed an addition of 187,411 acres to the Olympic National Park. The proclamation added to the park the Quinault River valley upstream of Lake Quinault, the Bogachiel River valley, the middle sections of the Elwha River valley, and the Staircase area near Lake Cushman. On May 29, 1943, President Roosevelt added the Hurricane Ridge area to the park. On January 6, 1953, President Truman added the Queets River Corridor and the Coastal Strip to the Olympic National Park. President Truman left the Olympic National Park within a few acres in size of the 892,000 acres authorized by Congress in 1938.

On January 21, 1976, President Ford signed legislation to expand the boundary to include Lake Ozette, Point of the Arches, and the Heart of the Hills Parkway within the Olympic National Park. Furthermore, the 1976 legislation redefined selected boundaries of the park including one boundary between the park and the forest and a major boundary between the park and lands administered by the Washington State Department of National Resources. The 1976 legislation resulted in more efficient land management for all agencies involved. Boundaries which can easily be identified on the ground utilizing natural features were established. Resource management was aided by establishing boundaries that correlate to natural systems. Cost savings for the various agencies were realized.

The Olympic National Forest and the Olympic National Park share many common boundaries. A high degree of cooperation has existed between these federal land management jurisdictions on a variety of programs. But some of the existing boundaries separating park and forest have created problems for both agencies in fulfilling their respective missions. These are found in selected areas where existing boundaries do not follow natural topographic features and hydrographic divides.

Established earlier in the century, many of the boundaries are drawn on township and section lines which do not always meet logical resource management needs or serve the best interests of the public. Existing straight line boundaries do not protect complete watersheds. The upper portions of some park watersheds lie outside park boundaries thus allowing land uses that could affect the visual integrity within drainages. In other places, the existing park boundary effectively blocks access to portions of the Olympic National Forest since logging roads cannot be built through the park.

S. 2351 incorporates the joint recommendations of the National Park Service and the United States Forest Service to modify further their common boundaries. The boundary adjustments would transfer 1954 acres from the Olympic National Forest to the Olympic National Park and 1236 acres from the Olympic National Park to the Olympic National Forest. The bill would also authorize the addition to the Olympic National Park of 263 acres of private land on the shore of Lake Crescent and along the Soleduck Road. These additions to the Park were recommended by the National Park Service. Acquisition of the private lands within the additions were identified as critical in the park's Land Protection Plan.

Our responsibility to future generations requires our continued vigilance on issues of management of our national parks. This bill will help resolve some of this issues for the Olympic National Park. I will continue to review this proposal carefully and will examine other boundaries of the Olympic National Park to determine whether further adjustments should be made. I look forward to hearing from today's witnesses regarding further refinements to the bill, and to working with Senator Wallop, Senator McClure, and other members of the Committee to ensure its passage.

STATEMENT OF HON. R. MAX PETERSON, CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ON S. 2351

Mr. PETERSON. I do appreciate your taking us now. I do have a 12:30 meeting that I must attend, and so I appreciate your taking us.

In order to conserve time, you have my statement. I don't really have anything to add. I think the fact that the park superintendent and the forest supervisor in the field have worked out this proposed interchange of land on the ground, looking at the specific land and making commonsense proposed adjustments, is the kind of thing we like to see done in the field.

So we have not modified at our level the proposal that was made by the forest supervisor and the park superintendent. It would add in total 2,217 acres to the national park, of which 1,954 acres are now part of the national forest system, plus 263 acres of private land, and it would transfer 1,236 acres now in the national park to the national forest.

We have maps here. We can over the land that is involved if you want to see them, but I don't need to take that time unless you do.

[The prepared statement of Mr. Peterson on S. 2351 follows:]

STATEMENT OF
R. MAX PETERSON, CHIEF
FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Before The
Subcommittee on Public Lands, Reserved Water and
Resource Conservation,
Committee on Energy and Natural Resources
United States Senate

Concerning S. 2351

June 20, 1986

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to appear here today and present the Department of Agriculture's views on S. 2351. This bill would modify the boundaries of the Olympic National Forest and Olympic National Park in the State of Washington to accommodate transfer of several parcels of land between the two units.

This Department recommends that S. 2351 be enacted.

The legislation would cause the addition of 2,217 acres to the National park, of which 1,954 acres are now a part of the National Forest and 263 acres are private lands. It would also transfer 1,236 acres now in the National Park to the National Forest. The purpose of the boundary revision is to improve the management of the Forest and Park while protecting important scenic, wildlife and recreation lands.

The proposed boundary revisions have been jointly developed by the Forest Service and National Park Service. The agencies have conducted extensive consultation with the public and with interest groups. An environmental assessment was prepared and made available for public review in January of this year. A full range of comments were received and considered on the proposal. Our analysis determined that although alternative suggestions were made, none were substantive enough to warrant revison or delay in supporting the proposal, particularly in view of the proposal's introduction in Congress. A decision notice and finding of no significant impact was published on February 26, 1986.

The exchanges of land between the Park and the Forest are desirable because they would remove impediments to management caused by the location of the boundaries resulting from rectangular survey lines utilized in setting the original boundaries. As such, the boundaries do not follow topographic features and hydrographic (watershed) divides. The existing straight line boundaries do not meet resource management needs or serve the best interests of the public. By following topographic features to the extent possible, the purposes of the Park can be better met. On the other hand, the existing Park boundary effectively blocks access to portions of the Forest, preventing multiple-use management since access roads cannot be built through the Park.

We believe that the actions proposed by S. 2351 are appropriate. They would permit cost savings and would be beneficial to the management of these Federal lands. We encourage the Subcommittee to act promptly on the bill.

Thank you for the opportunity to testify. I would be happy to answer the Subcommittee's questions.

Senator EVANS. I am quite familiar with the maps. We may want to get into some details a little later, but I would like to hear from Mr. Galvin.

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 2351

Mr. GALVIN. Mr. Chairman, we recommend enactment of S. 2351 if it is amended to delete the authorization for the acquisition of private lands. Actually, S. 2351, in addition to the exchanges that Chief Peterson referred to also authorizes acquisition of some private lands at Soleduck and at Crescent Lake and also deals with the Glines Canyon hydroelectric project.

We are entirely in support and in agreement with the Forest Service on the exchange of lands on the boundaries. They generally invert what are now township line boundaries to hydrologic boundaries, and with respect to both organizations improve the management of both the adjoining forest and the national parks by including entire watersheds where now the township's lines cross those.

So we are entirely in support of the recommended boundary changes with the forest. We are opposed to the acquisition of private lands. The cost of acquiring the privately owned lands proposed for inclusion is approximately $1.15 million. The administration opposes this acquisition and we recommend that the bill be amended to eliminate these private lands from the boundaries.

That concludes my statement.

[The prepared statement of Mr. Galvin on S. 2287, S. 2320, S. 2351, H.R. 2182/S. 1019, and S. 2483 follows:]

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 2287, TO AMEND THE WILD AND SCENIC RIVERS ACT TO DESIGNATE A CERTAIN PORTION OF THE GREAT EGG HARBOR RIVER IN THE STATE OF NEW JERSEY FOR POTENTIAL ADDITION TO THE WILD AND SCENIC RIVERS SYSTEM; S. 2320, TO AMEND AN ACT TO ADD CERTAIN LANDS ON THE ISLAND OF HAWAII TO HAWAII VOLCANOES NATIONAL PARK, AND FOR OTHER PURPOSES; S. 2351, TO REVISE THE BOUNDARIES OF OLYMPIC NATIONAL PARK AND OLYMPIC NATIONAL FOREST IN THE STATE OF WASHINGTON, AND FOR OTHER PURPOSES; S. 1019 AND H.R. 2182, TO AUTHORIZE THE INCLUSION OF CERTAIN ADDITIONAL LANDS WITHIN THE APOSTLE ISLANDS NATIONAL LAKESHORE; AND S. 2483, TO AMEND THE FIRE ISLAND NATIONAL SEASHORE ACT OF 1964.

June 20, 1986

S. 2287--Study of Great Egg Harbor River, New Jersey.

S. 2287 would amend the Wild and Scenic Rivers Act by designating the entire Great Egg Harbor river in New Jersey for study as a potential component of the National Wild and Scenic Rivers System. The bill would require that the study be completed within three years, and it authorizes the appropriation of such sums as may be necessary to complete the study.

We oppose the enactment of S. 2287.

The nationwide rivers inventory which was released by the National Park Service in 1982 identified five segments of the Great Egg Harbor river in New Jersey as containing potential outstandingly remarkable values. The river segments identified in the nationwide inventory totalled 56.2 miles.

A large portion of the river is located in the Pinelands National Reserve, an area which the Congress identified in the National Parks and Recreation Act of 1978 as being important ecologically and for which special planning and acquisition assistance to the State of New Jersey was authorized. Since there is no Federal land along the river corridor, we believe its status is a matter for the State to consider. We would welcome a nomination from the Governor for designation as a State-administered component of the National Wild and Scenic Rivers System.

S. 2320--To amend the boundaries of Hawaii Volcanoes National Park to include Tract 22.

S. 2320 would authorize the Secretary to acquire by purchase with donated or appropriated funds, donation, or exchange an area of land adjacent to the existing boundary of Hawaii Volcanoes National Park, known as Tract 22. The intent of S. 2320 is to facilitate a three-party exchange between the State of Hawaii and the Estate of James Campbell and, thereafter, between the State of Hawaii and the National Park Service. Tract 22 comprises approximately 5,650 acres that would be included within the boundaries of and administered as a part of Hawaii Volcanoes National Park. The Secretary is authorized to accept title to lands identified as Tract 22 and to convey title to any real property under his administrative jurisdiction, excluding real property within or administered as a part of the National Park

System in the State of Hawaii. Authority is provided for a monetary payment to equalize the value but not to exceed 25 percent of the appraised value. Provision is also made to have the General Services Administration transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii, excluding those lands ceded to the United States Government from the State of Hawaii.

We oppose the enactment of S. 2320.

Tract 22 is adjacent to the boundaries of Hawaii Volcanoes National Park on the island of Hawaii.* This tract of land supports dense ohia-fern rainforest which is prime habitat for several species of rare native birds.

On April 18, 1986, the State of Hawaii and the Estate of James Campbell consummated an exchange, whereby Tract 22 was acquired by the State in exchange for State land located further downslope from the park. The State has indicated that it is willing to convey Tract 22 to the Federal Government for park purposes in exchange for appropriate Federal land that has been declared surplus by the General Services Administration or determined to be excess to the needs of the administering Federal agency. However, the General Services Administration opposes such earmarking of excess or surplus Federal land for disposition in a manner inconsistent with the Federal surplus property laws. We therefore defer to the views of that agency as the the enactment of S. 2320.

S. 2351--A bill to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington.

We recommend enactment of S. 2351, if it is amended to delete the authorization for acquisition of private lands.

S. 2351 would amend the boundaries of Olympic National Park and Olympic National Forest. The Olympic National Park boundary would be revised to include approximately 2,217 acres and to exclude approximately 1,236 acres. The Olympic National Forest boundary would be revised to include approximately 1,236 acres and to exclude approximately 1,954 acres. We would note, Mr. Chairman, that the acreage figures contained in S. 2351 correspond to the rough estimates in the Environmental Assessment prepared in support of the boundary changes and dated December 1985. However, in preparing for this hearing, our Land Resources Division prepared a land cost estimate based on actual ownership information; and we now have more accurate acreage figures, which are provided in the following table. We would like to point out, however, that we believe that the maps referred to in S. 2351 are the controlling documents since the acreages referenced are approximate figures.

OLYMPIC NATIONAL PARK:

Lake Crescent addition:	88 acres
Soleduck addition:	223 acres
Transfer of Federal lands from Forest:	1,954 acres
TOTAL ADDITION	2,265 acres
(Transfer of Federal lands to Forest:	1,236 acres)
NET ADDITION TO PARK:	1,029 acres

OLYMPIC NATIONAL FOREST:

Transfer of Federal Land from Park:	1,236 acres
(Transfer of Federal Land to Park:	1,954 acres)
NET DELETION FROM FOREST:	718 acres

Olympic National Park and Olympic National Forest share a common boundary in many places. A high degree of cooperation has existed between the Forest Service and the National Park Service on a variety of programs. However, some of the existing boundaries that separate the park and the forest have created problems for both agencies in fulfilling their respective missions. These are found in selected areas where existing boundaries do not follow natural topographic features and hydrographic divides. Established earlier in the century, many of the boundaries are drawn on township and section lines which do not always meet logical resource management needs or serve the best interests of the public. Existing straight line boundaries do not protect complete watersheds. The upper portions of some park watersheds lie outside park boundaries thus allowing land uses that could affect recreation and scenic resources downstream. In the Rugged Ridge area, the existing park boundary effectively blocks access to portions of the forest since logging roads cannot be built through the park.

Public Law 94-578, which was signed into law on October 21, 1976, redefined selected boundaries of the park including one boundary between the park and forest and another boundary between the park and lands administered by the Department of Natural Resources of the State of Washington. That legislation has resulted in more efficient land management for all agencies involved. Boundaries which can easily be identified on the ground using natural features were established. Resource management was aided by establishing boundaries that correlate to natural systems.

As a result of the positive effects of the earlier exchange and recognizing a need to solve specific problems caused by the boundaries between the park and the forest, staff of the Olympic National Park and the Olympic National Forest began a detailed study in about 1981 to determine whether there were other areas where minor boundary changes could facilitate their management objectives while serving the public interest.
The objectives of the boundary study were:

1. Improve land management.

2. Achieve management cost savings.

3. Solve on-the-ground management and/or resource problems. Identify those changes that achieve a specific goal rather than changes that do not further specific needs.

4. Protect critical resources.

The study was completed in December 1985 after compiling public comments. It resulted in a recommendation from the park superintendent and the forest supervisor which proposes minor revisions in the park and forest boundaries. These revisions are embodied in the park maps referred to in S. 2351.

The cost of acquiring the privately owned lands proposed for inclusion is approximately $1.15 million. The Administration opposes this acquisition, and we recommend that the bill be amended to eliminate these private lands from the boundary editions.

H.R. 2182 and S. 1019--Apostle Islands National Lakeshore boundary, Wisconsin.

H.R. 2182, which passed the House of Representatives on December 16, 1985, and S. 1019 would amend the Act of September 26, 1970, which established the Apostle Islands National Lakeshore in Wisconsin, by revising the boundary to include the 200-acre island, Long Island. The House-passed bill would also transfer jurisdiction of all Federal property on the island to the Secretary of the Interior for purposes of the lakeshore, subject to the right of the Coast Guard to use a portion of the land and facilities for navigational aids. Both bills would authorize the appropriation of such sums as may be necessary to acquire Long Island.

We recommend that neither bill be enacted. Much of the island that would be authorized for addition to Apostle Islands National Lakeshore under this bill is under the jurisdiction of the Coast Guard and is now protected by that agency; the island is located a good distance from the other management units of the lakeshore and separated from the Apostles by Madeline Island, where a State park is located; and we have no estimate of the costs associated with development and management of the island.

Long Island was one of 21 islands in Lake Superior proposed for inslusion within an Apostle Islands National Lakeshore by this Department in 1965. At that time Long Island was indicated as being 408 acres in size, with two privately owned cabins on the property.

The Department's 1965 lakeshore proposal recommended three units: The Apostle Islands units, consisting of the 21 islands; the Red Cliff Unit, a 30-mile-long strip of highlands along the Lake Superior shore; and the Kakagon-Bad River Sloughs Unit, a long sand spit fronting on Lake Superior together with marshlands behind the sand spit. Long Island is actually a lakeward extension of this sand spit, although it was included in the islands unit.

Legislation was considered and passed by the Senate in the 90th and 91st Congresses to establish the lakeshore. A major consideration was the treatment of Indian trust lands within the boundaries. The proposed lakeshore would have included almost 11,000 acres if allotted and tribal land within the reservations of the Red Cliff Band and the Bad River Band of the Lake Superior Tribe of Chippewa Indians. Although provisions were recommended that would require Indian consent to acquisition of Tribal or allotted lands, and would permit acquisition of replacement lands for addition to the reservations, the House Committee on Interior and Insular Affairs in the 91st Congress reported an amended bill that excluded all tribal and most allotted lands from the boundary. The Committee report cited the failure of the Indian bands to agree to the inclusion of tribal lands as the reason for excluding the Indian lands.

The reported bill also deleted Long Island. Although the Committee report did not specifically address Long Island, we assume it was excluded because this island was deemed to be a part of the management unit that included the Bad River Reservation on the mainland, which was excluded. Further, the island is separated by about 8 miles from the nearest island (Basswood) among the Apostles, which were included and are now within the lakeshore.

In the 91st Congress the Senate-passed bill was amended by the full House of Representatives to conform to the bill as reported by the House Committee on Interior and Insular Affairs, and the Senate concurred in the House amendment. Accordingly, the bill was signed into law without Long Island in the boundary.

We have no estimate of the cost of operation or of any developments that may be needed to accomodate public use of the island and stabilization of the lighthouse. However, we estimate that the cost of the 103.85 acres of private land, including two seasonal residences, would be approximately $240,000. Because there would be this acquisition cost and some development and operations cost; because recreation use of Apostle Islands is relatively low (117,353 in 1985); and because there are no imperative reasons requiring the acquisition of Long Island, we believe these costs are unwarrented. Moreover, it is important that we not add relatively low priority areas at a time when strong actions are necessary to reduce the budget deficit.

We understand that the Coast Guard has jurisdiction over approximately 137 acres of Federal land on the island, and the remainder is privately owned. We have been told that the Coast Guard has some concerns regarding a transfer of jurisdiction to the National Park Service, but we defer to the views of the Coast Guard as to the specific nature of those concerns.

S. 2483--To amend the Fire Island National Seashore Act of 1984.

We have no objection to the enactment of S. 2483.

The bill would amend section 3 of the Act of September 11, 1964, which established Fire Island National Seashore. Section 3 of the 1964 Act authorizes the Secretary to issue regulations specifying standards for local zoning ordinances which must meet his approval. Under other provisions of the 1964 Act, the Secretary's authority to acquire improved property within the Seashore by condemnation is suspended so long as local zoning regulations approved by the Secretary are applicable to such property.

S. 2483 would provide that any matter covered by the Secretary's zoning standards shall be governed exclusively by the local zoning ordinances adopted by the towns and approved by the Secretary. We understand that the purpose of S. 2483 is to assure certain owners of improved property within the National Seashore that State-imposed coastal zone regulations on use and development of their property will not apply to improved properties that are already subject to federally approved zoning ordinances. We understand that the proposed State regulations would not permit homeowners, located within the State's dune protection zone, to rebuild if a storm were to destroy their homes. Within the Federal dune protection zone, rebuilding depends on conformance to the Secretary's standards and regulations in force.

The Department is satisfied that the Secretary's current standards and the towns' local ordinances provide adequate protection of the resources of the seashore. Although the Federal standards and zoning now in place would permit more rebuilding than the proposed State regulations, we do not believe the difference is crucial to our management of the seashore. Moreover, it should be noted that we have the authority to revise our standards and adjust the boundaries of the dune protection zone (the latter requires Congressional approval), if a greater level of protection is needed to protect the park. In fact, we are currently remapping the boundaries of the Federal dune district.

The amendment would not hinder these processes. Rather, it merely reaffirms Congressional intent that the regulations, ordinances, and dune protection zones that evolve from these processes shall be controlling within the boundaries of the Fire Island National Seashore.

This concludes my prepared remarks Mr. Chairman. I would be pleased to respond to any questions you or other members of the Subcommittee may have.

Senator EVANS. I hardly need ask the question, but I will go ahead and ask it. Would the Park Service, of its own volition, endorse 2351 as it was originally written? Do you recommend the entire bill, including the acquisition of the private lands?

I hate to put you in this position.

Mr. GALVIN. We endorse the administration's position.

Senator EVANS. I know you endorse the administration's position. You would hesitate to do otherwise at your peril. But what was the Park Service recommendation to OMB?

Mr. GALVIN. We recommended enactment of S. 2351.

Senator EVANS. So it was OMB that decided that they didn't want to spend the $1.15 million; isn't that correct?

Mr. GALVIN. I am not sure.

Senator EVANS. Not sure.

But your recommendation was for the entire bill as it went to other places in the administration.

Mr. GALVIN. Originally, yes.

Senator EVANS. And I understand that. I don't like to make you any more uncomfortable than I am sure you are, but I think that it is important for us to understand where recommendations are coming from within the administration. We have heard it often enough on many other issues to be pretty clear in our own minds where it comes from anyhow.

It is nice to have it ratified.

Let's talk a little bit about that particular portion of land. Isn't the private land which is at the end of the lakes on Lake Sutherland and Lake Crescent—in fact, we may want to put the maps up there. That would be helpful.

[Pause.]

Mr. GALVIN. Mr. Chairman, with respect to the specifics of the acquisitions, we have here today Bob Chandler, the superintendent of Olympic, that can describe for you the conditions on the ground in much greater detail than I could.

Senator EVANS. Great.

All right. The first one is the addition at the end of—I guess that is the end of Lake Crescent, is it not, on the east end of Lake Crescent? What was the original recommendation? What's there, and how important is that acquisition?

Mr. CHANDLER. It is an 88-acre tract known as the Fisher Tract, and the east boundary of the park on the east end of Lake Crescent is a few feet from the edge of the lake.

Senator EVANS. In fact, is the eastern boundary of Olympic National Park there—all was on the shore side of the lake, or in a couple of instances does it actually go through a portion of the lake?

Mr. CHANDLER. It does not go through a portion of the lake.

Senator EVANS. But it is barely on the edge.

Mr. CHANDLER. In some cases, a matter of a few feet from the edge. It is a critical viewshed area because as you drive the Lake Crescent Highway heading east, for a considerable portion of the east end of the lake from that road, you view the Fisher property which slopes and covers a good portion of what you see as you are heading east.

Senator **Evans**. Could you describe the Fisher property as it looks now or what is on the Fisher property?

Mr. **Chandler**. The property rises quite steeply from the lake to a knoll that is probably a couple of hundred feet above the lake. A portion of the property has been logged, so it is coming back with regrowth.

The top of it is fairly level and would be suitable for development.

Senator **Evans**. Is there a willing seller? Would the Fishers at this point be willing to sell?

Mr. **Chandler**. There is.

Senator **Evans**. In your view, if we rejected that, would the Fishers at that point probably put it up for sale to other purchasers?

Mr. **Chandler**. There is no question. He has a preference to sell it to the National Park Service because he feels it's appropriate to be in the park. But he has it for sale, he needs to sell it, and he would sell it to another party if we are unable.

Senator **Evans**. Under current land use laws and opportunities in the county, if he did sell to a person who desired to develop it, would it probably be approved as an intensive lakeside development, or could it be?

Mr. **Chandler**. My guess is that there would be considerable debate at the county commissioner level about what would be the appropriate level of development there. I would hesitate to speculate on what the final zoning decision would be on that.

Senator **Evans**. Do you know what the current zoning is on that land and what is allowed under current law?

Mr. **Chandler**. I do not. No.

Senator **Evans**. I appreciate that.

I think there is another section, isn't there also, of private land to be obtained?

Mr. **Chandler**. Yes. The other section of private land is an area right at the beginning of the Soleduck Road. It is a little over 200 acres of private timberland owned by Merylin Timber Co. and there is a much smaller sliver adjacent to that that is owned by the Department of Natural Resources.

Senator **Evans**. Is it accurate to say that the current park boundary essentially goes along the road?

Mr. **Chandler**. Yes, sir. The current park boundary is within 20 feet of the edge of the road.

Senator **Evans**. And so this would be an acquisition essentially from almost at the turnoff from Highway 101. I don't know how many miles that is along there, but up to where you would have more extensive—or would it go all the way up to where you would have protection on both sides of the road as you lead into the park?

Mr. **Chandler**. It would go that far. It is roughly 3 miles from where you leave 101 to where you would join the area of the park where you have a considerable portion on each side.

Senator **Evans**. Would this have the effect of pretty well protecting the viewshed on the west side of the road?

Mr. **Chandler**. Yes; it would.

Senator **Evans**. Do I understand correctly that that Soleduck Road with the hot springs and with the other use of that road and with the trails that lead from it is getting more and more extensive use as time goes on?

Mr. CHANDLER. That is correct It's a very popular activity site, both for back country access as well as for camping and use of the resort area at the end.

Senator EVANS. So with this acquisition you would have a situation where there would be essentially a protected viewshed and a park-like road access from there, from 101 essentially to the end of the road in the park?

Mr. CHANDLER. That is correct.

Senator EVANS. Is there a breakdown in terms of cost between this particular parcel and the parcel at the end of Lake Crescent?

Mr. CHANDLER. This particular parcel has the highest cost. It is about 215 acres and it is all older second growth forest. So the timber value is quite high. And we have been negotiating with the property owner. We haven't reached agreement yet, but the largest percentage of the cost that is referred to in Mr. Galvin's testimony is reflected in this timber company tract.

Senator EVANS. Well, thank you very much. I think that gives us a pretty explicit view of the importance of those two properties and where the opposition is coming from. That helps.

Now, in a broader sense, do I understand correctly that the Forest Service and the Park Service have been engaged in broader studies of the desirability of changing the boundaries of Olympic National Park and the surrounding forest to more accurately follow hydrographic and ridge lines, rather than section lines which pervade so much of it?

Mr. PETERSON. That is true, Mr. Chairman.

Senator EVANS. This is another limited move in that direction to follow the one which passed—when—in 1976, or whenever it was?

Mr. GALVIN. That is correct.

Senator EVANS. I understand from your analysis that this is a preferred alternative. There were other alternatives sought and there were other areas that were looked at. I suspect other witnesses may testify to the desirability of moving in other areas.

Let me ask specifically about at least one of them. Alquee Creek is another area where the current park boundary, as I understand it, runs essentially along the river, with one half protected, the other half unprotected. I do understand further and, Max, you could tell me, but that on that west half, the west slope that's in the forest, there has been one sale consummated. There have been other sales which have defaulted. There are a number of sales for future cut.

We haven't done very much to it yet. But doesn't it make some sense to do one of two things: either add the protection on that west side, or take it off both sides? How in the world can you run a park in a Park System where you cut one half and leave the other half?

Mr. PETERSON. We are not cutting one-half of the park and leaving the other. You are talking about one drainage.

Senator EVANS. I am talking about in that drainage, you are cutting one-half the drainage and leaving the other half? One-half is in the park; one-half is in the forest.

Mr. **Peterson.** Well, there is very careful harvest on that half that is on the other side of the drainage. We have not found that people that visit areas are particularly upset that they see something out on the horizon. They may see the middle of Seattle. They may see some other places.

But if you took the idea that a park has to include all of its viewshed, you would be talking about enormous areas. You would wipe out the whole Olympic National Forest.

Senator **Evans.** Oh, I don't think that is true at all. I don't suggest that that is what always ought to happen. Perhaps in some cases we ought to change from section line, as we did in this bill You add some things, you subtract some things to make a better management area. But I am just asking about this particular one.

Would you not say that when the boundary runs down the middle of the river, you haven't got a very good situation in that watershed? Wouldn't that be accurate to say?

Mr. **Peterson.** No, I would not agree with that. I would not agree with that, because we have very stringent rules for protection of water quality and so on on national forest lands. So it's not a question of one half is protected and the other half is unprotected.

Senator **Evans.** You have those rules regardless of where you cut timber, don't you?

Mr. **Peterson.** That's right.

Senator **Evans.** OK. Well, I would suggest from personal knowledge and from visiting, that there is a big difference where you run along section lines, there is a big difference between what is in the park and what is out of the park.

What is in the park is essentially virgin timber. What is outside the park is cut. You can tell where the boundary lines of the park are just by flying over it. And I suspect the same would eventually happen as you cut the sales in there. I have seen the sales that are scheduled for cut, and you would have most of that watershed cut within the next 5 years.

Mr. **Peterson.** Well, let me simply say, Senator, that the park superintendent and the forest supervisor looked intensely on the ground and looked at all kinds of alternatives, including moving to all kinds of places.

I don't really want to second-guess them here. I don't really think that is appropriate for me, based on looking at a map, to try to second-guess them because they did look at other alternatives like going up the ridge. They did look at the alternative of putting all that into the national forest instead of leaving it in the park. They looked at both.

You are talking about a major change there that has great implications.

Senator **Evans.** When you have those requirements, and they go out on the ground and they look at all of these things and then they come back and make recommendations, isn't it true that you are asking them to do it on the basis of trying to get some balance?

It's not a question of adding to the park or subtracting from the park. It's adding and subtracting because both agencies are interested in their own management responsibility and they kind of want to keep the trade as even as they can?

Mr. PETERSON. Well, if you notice in this case, that is not the case.

Senator EVANS. I know it isn't. I know it's 1,900 to 1,200.

Mr. PETERSON. No; actually, that counts the private land. There is almost twice as much going to the park as coming to the forest. So we didn't tell them to look at each piece of acreage. There's 2,217 acres going to—there's 1,954 acres going from the national forest to the park and 1,236 going the other direction.

Senator EVANS. That's what I said.

Mr. PETERSON. But 700 acres. It's almost 50 percent additional going in the other direction. So we did not tell them to look at equal acreage. We told them to look at a manageable kind of boundary on the ground and make some comments and suggestions.

Senator EVANS. So you are satisfied that the best management for that creek is to log one side and protect the other?

Mr. PETERSON. I don't think those are the alternatives that are available to us. There are several other alternatives on the national forest side. Part of that drainage would never be logged. It isn't even the type of land that you would log. A portion of it you would log; yes.

Senator WALLOP. Dan, I wonder if I could——

Senator EVANS. Yes; move along.

Senator WALLOP. Well, yes, I have a problem. That is, I have to be out of here in 1 hour and 5 minutes. We have 18 witnesses, and the administration still has not testified on the other bills.

Senator EVANS. Well, I am through for now and we will have further written questions for the record.

Do you want him to finish testifying on all the other bills that they have got? I think there has been some testimony on some of them.

Senator WALLOP. What I think, recognizing that it is a certain level of frustration for you—we have your complete statements on all the other bills that you have submitted. I will ask the committee use those statements to submit questions, whatever questions they may have on the remaining bills to you for your responses.

I am sorry for that, but we have to do that. We have a number of people from out of town on some of these other bills, and I do not want to leave them without an opportunity to testify.

[The prepared statements of Mr. Peterson on S. 2466 and S. 2532 follow:]

STATEMENT OF
R. MAX PETERSON, CHIEF
FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands,
Reserved Water, and Resource Conservation
Committee on Energy and Natural Resources
United States Senate

On S. 2466, a bill to designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System.

June 20, 1986

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am pleased to have the opportunity to present the Department's views on S. 2466, a bill to designate a segment of the Saline Bayou within the Kisatchie National Forest in Louisiana as the first National Wild and Scenic River in the State of Louisiana.

The Department of Agriculture supports the enactment of S. 2466.

S. 2466 would designate 19 miles of Saline Bayou from Saline Lake upstream to the Kisatchie National Forest boundary as a component of the National Wild and Scenic River System. Saline Bayou is recognized as one of Louisiana's most scenic and unique streams. Its headwaters are formed from the union of Baker's Creek, Williams Creek and Saline Creek just south of Arcadia in Bienville Parish. From its origin, the bayou winds southward for approximately 40 miles to the northern end of Saline Lake. The recreation uses in the river corridor are primarily canoeing, fishing, and hunting.

The 19 miles that are proposed for designation are within the boundaries of the Kisatchie National Forest. The 33 miles of the Saline from its headwaters to 7 miles above Saline Lake are included in the Louisiana State Scenic and

Natural Streams System. This system prohibits channelization, clearing and snagging, and channel realignment on designated rivers and is administered by the Louisiana Department of Wildlife and Fisheries. Twelve miles of the 33-mile State designation overlaps the segment proposed in S. 2466.

In our Final Forest Plan and Environmental Impact Statement issued in September 1985, we recommended that the 19 miles of the Saline Bayou within the forest boundary be studied for possible inclusion in the National Wild and Scenic Rivers System. We determined that the river is eligible, based on its scenic quality and recreation potential. The public comments on this proposal were generally supportive of this study or designation. Normally, more detailed evaluation of resource values and public response would occur as part of a specific river study.

Approximately 28 percent of the river corridor to be designated in S. 2466 is privately owned. These private lands are essentially undeveloped flood plains of predominantly bottom-land hardwoods. We do not anticipate a need to acquire lands along the Saline Bayou to protect river values if it were designated. Significant development or timber harvest on private land is not expected due to the fact that most of the corridor is within the flood plain. Some timber harvest has occurred on both Federal and private lands, but not to the riverbank. There are no water projects proposed in the segment of Saline Bayou to be designated in S. 2466.

While we believe it is likely that the Administration could support the designation of Saline Bayou as a component of the National Wild and Scenic River System after completion of our study, we recommend that further action on the bill be deferred until the study has been completed.

This concludes my prepared statement. I would be happy to answer any questions the Committee might have.

STATEMENT OF
R. MAX PETERSON, CHIEF
FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands, Reserved Water and Resource
Conservation of the Committee on Energy and Natural Resources
United States Senate

On S. 2532, a bill "to amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the Wild and Scenic Rivers System.

June 20, 1986

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am pleased to have the opportunity to present the Department of Agriculture's views in support of S. 2532, a bill to designate approximately 21 miles of Black Creek in Mississippi between Moody's Landing and Fairly Bridge Landing as a component of the National Wild and Scenic River System.

Forty-one miles of Black Creek were designated by Congress as a study river, and in 1984 the draft wild and scenic river report was issued in accordance with the Wild and Scenic Rivers Act and the National Environmental Policy Act. The entire 41-mile study river was found to be eligible for designation; however, in the draft report we proposed that only 19 miles of Black Creek be designated as a component of the National Wild and Scenic River System. We did not propose designation of the other 22 miles because of the potential impacts on private lands. Public comment was received and analyzed, and the final report should be transmitted to Congress this spring. We are far enough along in our study process to recommend that the 21 miles in H.R. 4091 be designated as a component of the National Wild and Scenic River System to be managed by the Secretary of Agriculture. This increase of 2 miles of river designation from the draft proposal would provide a more definitive segment because of recognizable features along the river. The "Scenic" classification is consistent with our study findings.

Black Creek lies within the Mississippi Gulf Coastal Plain in Forrest, Perry, and Stone Counties in the DeSoto National Forest in southern Mississippi. There are no streams in Mississippi that are currently in the National Wild and Scenic Rivers System.

The stream channel of the proposed segment is characterized by white sandbars, overhanging vegetation, steep bluffs, moss-covered banks, and colorful red vertical 15-30 foot bluffs. For over 10 years, the Forest Service has identified Black Creek as a float trip for canoes and flat-bottom boats. In 1980, construction began on a hiking trail that parallels Black Creek from Fairley Bridge upstream along the proposed designated segment. This trail is now completed and at 10 or 12 points comes out onto the creek bank. The creek is a major attraction along the trail which has been designated a National Recreation Trail. For 5 miles, the river flows through the recently designated Black Creek Wilderness.

We support the designation of Black Creek as described in S. 2532. This concludes my prepared comments. I would be happy to answer any questions the Committee might have.

Senator EVANS. As they leave, I just have one question to round out the questions that I asked before. I almost hate to do this, but is it also true that in S. 2287, the Egg Harbor River bill which you oppose, and S. 1019 and H.R. 2182, Apostle Islands National Lakeshore which you oppose, that in both cases it was OMB that made the decision to oppose?

Mr. GALVIN. No, sir; that is not correct.

Senator EVANS. So in this case, the Park Service itself is in opposition?

Mr. GALVIN. In both instances we support the administration.

Senator EVANS. I understand you always support the administration. Well, tell me what the original Park Service recommendation was in the case of each of those two bills.

Mr. GALVIN. OK. On the Great Egg Harbor bill we supported it, and the Long Island bill we opposed.

Senator EVANS. OK, thank you very much.

Mr. PETERSON. Mr. Chairman, I do need to make one correction on S. 2466 on our testimony. We unfortunately did not make a correction in the word "process." We need to say there, after the first paragraph, that while we believe it is likely that the administration could support the designation of the Saline Bayou as a component of the National Wild and Scenic Rivers System after we complete the study—we would like to complete the study.

I think you need to understand that we know of no opposition to put it into the Wild and Scenic Rivers, but we have not technically completed the study that we normally would do.

Senator WALLOP. How long would that take?

Mr. PETERSON. That would probably take another several months. I just wanted you to be aware that technically——

Senator WALLOP. You are sure it is a matter of time that is that short?

Mr. PETERSON. No; it could take 6 to 18 months. But all I am suggesting to you is that technically as a matter of due process, we would like to complete studies. That is the reason for that.

Senator WALLOP. OK, thank you.

We are going to move to S. 2351 and S. 2320. I am going to ask the witnesses that are there to genuinely pay attention to the lights because if you don't, I will. I really feel an obligation to those who come later to make certain that they have an opportunity to testify as well.

Mr. Robert Pierce, National Park Trust, National Parks and Conservation Association; Mr. Brock Evans, the National Audubon Society; Mr. Gus Kuehne of the Independent Forest Manufacturers of Tacoma, WA; Mr. Dean Hurn, president of the Hoh River Timber, Beaver, WA; Mr. Charles Raines, chairman, National Park Committee of the Cascade Chapter of the Sierra Club; Ms. Polly Dyer of the Olympic Park Associates; and Mr. William Tam, deputy attorney general, State of Hawaii.

Mr. Pierce.

STATEMENT OF ROBERT PIERCE, ADMINISTRATOR, NATIONAL PARK TRUST, NATIONAL PARKS AND CONSERVATION ASSOCIATION, ON S. 2351

Mr. PIERCE. Senator, one point of order. I am here to testify on two bills. Do I have 3 minutes or 6 minutes?

Senator EVANS. One and a half.

Mr. PIERCE. One and a half for each?

Senator WALLOP. Use your judgment, but you do have 5½ for one and one-half for the other.

Mr. PIERCE. OK. I will address Olympic shortly, and then I would like to reserve my comments on Hawaii volcanoes until after the assistant attorney general, Bill Tam, has spoken on the Hawaii volcanoes issue.

NPCA supports the general scope of the bill S. 2351, to revise the boundaries to conform to hydrographic features. First, we do feel that there are further revisions needed in the Mount Baldy area, to include the Madison Creek watershed; in the Pine Mountain area, to incude the Alckee Creek watershed and in the Finley Creek area some minor adjustment is needed to include Finley Creek within the park.

We also would support the proposed acquisition of Lake Ozette and the intertidal zone along the Pacific coast, and I do believe the other members of the panel who are testifying on Olympic can you fill you in on more details.

Beyond the substantive issues, NPCA would like to address one policy issue that has surfaced in this, and that is the repeated reference of equity in this exchange process between the two agencies. While we have no proof that this consideration may have affected the decisionmaking processes at Olympic, the practice begs the question as to whether or not this exchange proposal has suffered because of the infusion of the equity concern between the two agencies.

We all generally agree that the public domain belongs to the American people and that the Federal agencies are the principal stewards. The interjection of territorial and turf considerations between agencies is strongly engrained in the land transfer and exchange process, no matter what Federal agency is involved.

We must ask the question whether it is more important to take a fragmented approach to overall public domain management or a holistic approach which will ensure the soundest decisions made on it during benefits. We are not advocating a paramount role for the National Park Service and all land management decisions, but we do advocate a sensible approach to resource management where a national park is involved with the international stature of Olympic National Park.

[The prepared statement of Mr. Pierce follows:]

STATEMENT OF ROBERT PIERCE
ADMINISTRATOR, NATIONAL PARK TRUST
NATIONAL PARKS AND CONSERVATION ASSOCIATION

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS,
RESERVED WATERS AND RESOURCE CONSERVATION

JUNE 20, 1986

Mr. Chairman and other distinguished members of the subcommittee, I am Robert Pierce and I sincerely appreciate the opportunity to appear before you today to give you NPCA's views on S. 2351, a bill to adjust the boundaries of Olympic National Park and and Olympic National Forest in the State of Washington, and S. 2483, a bill to amend the Fire Island National Seashore Act of 1964.

S. 2351 is a bill designed to revise the boundaries of Olympic National Park and National Forest to make those boundaries more responsive to management needs and to make them conform more closely with natural hydrographic features. NPCA supports the concept outlined in the bill since we have confronted the problems caused by boundaries drawn in straight lines without regard to natural features in other units of the National Park System. While we support the need to revise the boundaries, and generally support the revisions that are being proposed in S. 2351, we feel that there is a need to amend the bill to allow this boundary revision process to go a few steps further.

First, NPCA would support an adjustment of the boundary east of the proposed Mt. Baldy revision. Currently approximately 500 acres of the Madison Creek watershed are located outside of park boundaries. This land is recognized as critical habitat for the disturbance sensitive Spotted Owl which is being considered for protection under the Endangered Species Act. The addition of this area would further ensure protection for the Spotted Owl and place the entire drainage within the park.

Second, the boundary immediately north of the proposed Pine Mountain adjustment needs to be reassessed. The existing boundary is now Alckee Creek with one half of its watershed in the National Forest and the other half in the National Park. Alckee Creek is a major drainage to the main stem of the Soleduck River. The Soleduck is recognized as being important to the preservation of the wild

National Parks and Conservation Association, 1701 Eighteenth Street, N.W., Washington, D.C. 20009
telephone (202) 265-2717

genetic stocks of salmon found within the park. NPCA supports the inclusion of the whole of the Alckee watershed within park boundaries. A third consideration addresses the need for minor adjustments to the boundary north of Lake Quinault in the Sams River drainage and the area of Finley Creek. Minor adjustments between the forest and the park in this area would place the mainstem of Finley Creek within the park and allow the relocation of park boundaries at the ridgelines.

NPCA would also support two other adjustments not proposed in S. 2351 pertaining to Ozette Lake and the inter-tidal zone along the Pacific Coast. The transfer of the surface and subsurface acreage of Ozette Lake to the National Park is strongly recommended to allow for Park Service management of the Lake, a popular visitor attraction now only marginally included within the park. Currently the shore area is under the jurisdiction of the Park Service while the lake itself is not. Second, we have been informed that the marine life in the intertidal lands on the Pacific Coast is being destroyed by individuals who are overfishing the resource. The National Park Service is incapable of stopping this overharvest because it does not have law enforcement authority in the area. NPCA would support an amendment to S. 2351 that would adjust the boundaries to the low water mark to allow for protection of the intertidal land and its marine life.

Beyond the substantive issues in S. 2351, NPCA would like to address one policy issue that has surfaced in this proposed Forest Service and Park Service land exchange. Of particular concern is language found in the Environmental Assessment which served as the basis for this exchange proposal. The EA makes repeated reference to equity in the exchange process between the two agencies. Whether measured in acreage or board feet of lumber, there seems to be great emphasis on the part of each agency not to let the other have more than its fair share. While we have no proof that this consideration may have affected the decisionmaking process at Olympic, the practice begs the question as to whether or not this exchange proposal has suffered because of the infusion of the equality concern.

Agencies of the federal government, in particular the Departments of Agriculture and Interior, are the principal stewards of the public domain. That public domain, as it has been repeatedly stated, belongs to the American people, not to the Departments in the Executive Branch of the Federal Government. While we realize that the Forest Service is in the business of managing timber for disposal on the market and has accounting procedures that are tied into long range planning for a particular forest, we also realize that a short term financial gain from the sale of a particular tract of forest cannot, and does not, outweigh the benefits of enduring old growth forest which can be enjoyed by countless generations of Americans as part of the National Park System. The interjection of territorial and turf considerations between agencies is strongly ingrained in the land transfer and exchange process no matter what federal agency is involved. In the past, these considerations have kept beneficial proposals from reaching fruition, or have delayed them beyond acceptability. We must ask the question whether it is more important to take a fragmented approach to overall public domain land management or a holistic approach which will ensure the soundest decisions based on enduring benefits. While we are not advocating a cessation of all logging activities or a total paramount role for the National Park Service in all land management decisions, we do advocate a more sensible approach to resource management where a National Park is involved with the international stature of Olympic National Park.

NPCA thanks the Chairman and the members of the Subcommittee for this opportunity to comment on S. 2351.

NPCA would also like to comment on S. 2483, a bill to amend the Fire Island National Seashore Act of 1964.

Although S. 2483 is a very short bill, it may have extensive consequences. The legislation is designed to deal with the issue of rebuilding private residential properties that have been destroyed in certain areas within the boundaries of Fire Island National Seashore. Currently, both state and federal law controls the rebuilding of damaged property. S. 2483 would give the federal government exclusive jurisdiction in such cases. We question whether the State of New York should be denied the right to deal with redevelopment along its own coast. In addition, it is possible that S. 2483 would also affect the State's ability to regulate new development and erosion control structures. Finally, this legislation may be in conflict, at least in spirit, with section 307 of the Coastal Zone Management Act. This section requires federal government actions to be consistent with approved state coastal zone management plans. Clearly, S. 2483 raises many issues that extend beyond the primary intent of this legislation.

Senator WALLOP. Thank you.

Mr. Evans.

STATEMENT OF BROCK EVANS, VICE PRESIDENT FOR NATIONAL ISSUES, NATIONAL AUDUBON SOCIETY, ON S. 2351

Mr. EVANS. Thank you very much. I am here speaking on behalf of the National Audubon Society. We have generally always supported the concept of adding more lands to Olympic National Park wherever possible.

However, we have raised strong objections to the environmental assessment, which this bill would implement, and I want to explain why. Basically, Mr. Chairman, it is because we continue to have major concerns about the loss of old growth forest ecosystems in the Northwest and the particular way this bill would dispose of old growth forests.

We also believe the bill should address the problems of the Glines Canyon Dam and the Elwha River. My statement speaks to that in some detail. And finally, we feel the intertidal zone along the park's ocean strip should be added to the park. It is not now there.

I love the Olympic National Park very much the same way Senator Evans does. I read myself to sleep with maps of it, where I want to go next. It's an absolutely magnificent place. We were privileged to work very closely with Senator Evans in 1966 when we had to fight to save it and in 1976 when he had a lot to do as Governor with adding to it then.

This particular bill, though, and we have examined it very carefully, including the maps, seems generally, Mr. Chairman, to have the park giving up old growth forest lands of high value for wildlife and other multiple uses for lands which are characterized in the environmental assessment as steep and rocky and higher elevation.

The best estimate I've seen is about 400 acres of old growth forest below 2,500 feet will be given up by the park and will be eventually logged. That's a very rare and very scarce resource anywhere in the Pacific Northwest right now.

The rest of my statement deals in this portion with areas we would like to see added. You've heard the place names already and I won't go into them.

I have a much lengthier comment on the question of the dam, the Gline Canyon Dam inside the park. Seattle Audubon Society and other groups have filed a petition before FERC that it be removed from the park and the dam be eliminated because of its terrible impact on fish runs. With your permission, I'd like to have a copy of this submission added to the record for your committee's perusal.

Senator WALLOP. By all means.

Mr. EVANS. I also want to add here that I had a lengthy conversation with some representatives of the Elwha Indian Tribe affected by these dams yesterday. They asked me to inform the committee that they had not been consulted. Their financial situation doesn't let them do so. They wanted you to know, however, their opposition to these dams also.

Finally, the last page of my statement strongly supports the private acquisitions that Senator Evans has already discussed and I bring up again the question of the inter-tidal lands which are very, very important to all of us who love this park, be added. To most people they are already part of the park and they are not.

With that, we thank you very much for having this hearing. We want to do all we can to protect this magnificent park.

[The prepared statement of Mr. Evans with additional materials follows:]

National Audubon Society
NATIONAL CAPITAL OFFICE
645 PENNSYLVANIA AVENUE, S.E., WASHINGTON, D.C. 20003 (202) 547-9009

STATEMENT OF BROCK EVANS
VICE PRESIDENT FOR NATIONAL ISSUES
NATIONAL AUDUBON SOCIETY

ON S.2351
AN ACT TO REVISE THE BOUNDARIES OF OLYMPIC NALTIONAL PARK
AND OLYMPIC NATIONAL FOREST, AND FOR OTHER PURPOSES
WASHINGTON, D.C., JUNE 20, 1986

The National Audubon Society is one of the oldest and largest conservation organizations in the United States, with over one-half million members, united in their dedication to the well-being of this nation's natural heritage. Legislation which affects the Olympic National Park is of great interest to National Audubon and to our affiliated Audubon Societies in the Northwest. The goal of providing increased protection for the natural values of the Park is laudable, and we have always supported the concept of adding more lands to the Park wherever possible. However, we voiced strong objections to the Lands Adjustment Environmental Assessment, which S.2351 would implement. We continue to have major concerns about the loss of old growth forest ecosystems in the Northwest, and about the disposition of such old growth forest in this bill. We also believe that the bill should address the problem of the Glines Canyon Dam by directing that the dam be removed. Finally, the intertidal zone along the Park's Ocean Strip should be added to the Park.

The Olympic National Park is one of the great treasures of the American people. Within its boundaries is a unique combination of ocean shores, temperate rain forests, mighty rivers, alpine meadows, rugged mountains and glaciers. It is also one of the world's great wildlife refuges. This great heritage has been recognized internationally by the designation of the Park as an International Biosphere Reserve and as a World Heritage Site. As a World Heritage Site it is in the company of the Pyramids, Taj Mahal, Redwoods National Park, Independence Hall, and other great works of man and nature.

As we examine closely the characteristics of the parcels proposed for exchange from one jurisdiction to another, we find that the Olympic National Park is generally giving up old growth forest lands which seem to have higher value for some wildlife than do the lands that the National Forest would be trading. In general, Audubon does not support the removal of such old growth forest from protected status in the Park, and certainly cannot support their deletion for the lands that are currently proposed in S.2351. We are especially concerned about the 647 acre Prarie Creek deletion, which appears to contain much lower elevation old growth forest -- a very rare resource in protected status anywhere in the Northwest. National Audubon is, however, supportive of certain boundary adjustments of a minor but important nature, which include:

Alckee Creek and Pine Mountain--This drainage is now divided between the Park and National Forest. We strongly urge the addition to the Park of the remaining portions of the Alckee Creek drainage which are now in the National Forest, by extending the boundary of the Park north-northeast along the ridgeline of the divide between Alckee Creek and the south Fork of the Soleduck River. Such an addition would protect the habitat of the spotted owl, provide needed protection to the valuable fisheries of the Soleduck River, and would provide for consistency of management for the Soleduck River area. The Pine Mountain addition would place within the Park a small portion of the Bogachiel River drainage which was inadvertently left out of the park.

Storm King and Madison Creek--The boundary adjustment along the divide, as in S.2351, would help to complete protection for the watershed of Barnes Creek; we support similar completion of protection for Madison Creek east of the Elwha River.

Finley Creek and Sam's Ridge--The lands in Finley Creek are steep and unstable; and are very wet. Logging is highly questionable in such areas, and attempts in nearby areas have triggered landslides. Adjusting the boundary along hydrographic lines will provide complete protection to Finley Creek and a better boundary for the Sam's Ridge area.

On the Matter of the Glines Canyon Dam on the Elwha River

The Olympic National Park was originally conceived as a wilderness park, and it is still predominantly in this condition. However, there are two hydropower dams on the Elwha River which impose major impacts on the Park and completely block the access of anadromous salmon and steelhead to over 40 miles of some of the best habitat in the State of Washington. The two dams, Glines Canyon and Elwha, have had major adverse impacts on the fish, wildlife, recreational, and scenic values and resources of the area for more than 50 years. The upper dam, Glines Canyon, and its reservoir are located entirely within the Olympic National Park.

Prior to the construction of the two dams the Elwha River supported significant runs of anadromous fish. Large numbers of chinook, coho, pink, and chum salmon, steelhead trout, sea-run cuttroat trout and sea-run Dolly Varden made their way into the interior of what would later become the Olympic National Park. With the completion of the dams, with their complete lack of passage facilities, there was wholesale destruction of these fish runs. While there has been some hatchery mitigation for some of the chinook losses, none of the other losses have ever been mitigated. Anadromous fish use of the Park's longest river is completely blocked. Downstream movement of gravels for the replenishment of spawning habitats below the dams is also prevented, at the same time that the fluctuating flows from the dams flush and scour away the residual gravels. The state and federal fish and wildlife agencies and the National Park Service have all spoken of this decimation of fish populations and habitat.

Wildlife populations have suffered from the loss of a significant protein source, from the inundation of habitat by the reservoirs, and by the clearing of land for power facilities and transmission lines. Streamside areas have lost a major fertilization source. The fish and wildlife resources of the Park, a major reason for the establishment of the Park and of the International Biosphere Reserve and World Heritage Site designations, have suffered greatly as a result of these dams. Aesthetically, the Glines Canyon Dam intrudes upon an otherwise natural area.

The Seattle Audubon Society (an affiliate of the National Audubon Society), together with the Olympic Park Associates, Sierra Club, and Friends of the Earth, have intervened in the Federal Energy Regulatory Commission (FERC) proceedings and have petitioned for the removal of the dams. National Audubon Society concurs with their position that the FERC has no authority to relicense the Glines Canyon Dam within the Olympic National Park, and that the dam should be removed from the Park. The U.S. Fish and Wildlife Service has conducted preliminary feasibility studies which indicate that dam removal can be accomplished without harming the fish resource, and such removal would be in the long-term best interest of the fish and wildlife of the Park and of the Elwha River.

National Audubon Society strongly recommends that the Congress determine that the removal of the dam is in the best interests of the Park and of the United States and that it direct that the dam be so removed. The bill should also include direction to complete studies which will arrive at the most environmentally sound manner of removal. Included with our testimony for insertion into the record is a copy of the intervention submitted by the four groups to the FERC.

Private Lands Proposed for Park Acquisition--S. 2351 proposes that a privately owned strip along the Soleduck Road's first four miles, containing second growth forest, be acquired. Furthermore, S. 2351 proposes that an area of critical importance to the scenic values of Lake Crescent (previously but mistakenly assumed to be within the Park) be acquired. Current owners are willing to sell, and National Audubon Society supports these acquisitions.

Intertidal lands--It is not generally known that the intertidal lands along the heavily used Ocean Strip of the Park are not part of the Park. We strongly recommend that the Ocean Strip intertidal lands be added to the Park to provide for consistent and full protection for these very popular shorelands.

In summary, National Audubon Society recognizes that some very beneficial changes could be accomplished by a bill. We believe, however, that S. 2351 needs to incorporate additional changes along the lines that we have suggested in our testimony in order to live up to its goals. We hope that our recommendations will be carefully considered by the committee and we stand ready to work with Senators Evans and Gorton and other members to ensure that this Act will provide full protection to the precious natural resources of the Olympic National Park.

National Audubon Society
NATIONAL CAPITAL OFFICE
645 PENNSYLVANIA AVENUE, S.E., WASHINGTON, D.C. 20003 (202) 547-9009

June 27, 1986

Senator Malcom Wallop
Chairman, Senate Energy Committee
Subcommittee on Public Lands
Washington, DC

RE: S.2351, boundary changes to Olympic National Park

Dear Senator Wallop:

I had the pleasure of testifying before your subcommittee at the above mentioned hearings on June 20th, and very much appreciate the time and attention that your subcommittee has given to the most important matter of rounding out the boundaries of Olympic National Park, and giving better protection to it. After nearly three decades of personal experience exploring it, I can say it is one of the most magnificent possessions of the whole American people, and well deserves its designation as a World Heritage Site.

One of the major thrusts of my testimony was that while land exchanges between federal agencies are often a good idea and an efficient way of accomplishing park goals and objectives, in this case, the park gives up far too much of a rare and valuable, almost unique, park resource, for lands that are less desirable. This particular, rare, valuable, and increasingly scarce resource is lower elevation old growth forest; and our opposition to the exchanges in the Prarie Creek and Rugged Ridge areas in particular are because, in each case, the Park Service is giving up very large and very old trees at relatively low elevation, and receiving, elsewhere, in return lands which, while forested, are higher elevation, on steeper slopes, with many rock outcrops and cliffs. Simply put, high quality low elevation old growth forests are the fasting vanishing resource in North America, and we do not think the exchange is worth it in these particular instances.

Because of many witnesses and a lack of time, you very understandably were required to limit the testimony of each person speaking. For that reason, I hereby request that the attached letter from the National Audubon Society to Mr. Robert Chandler, Superintendent of Olympic National Park, dated February 12, 1986, be included in the hearing record as a part of my official testimony on behalf of our organization. It elaborates in some detail, by the use of quotes from the Environmental Assessment itself, our view that the Park is giving up far more value than it is getting in these specific areas.

Sincerely,

Brock Evans

Brock Evans
Vice President for
National Issues

879F
Enc.

National Audubon Society
NATIONAL CAPITAL OFFICE
645 PENNSYLVANIA AVENUE, S.E., WASHINGTON, D.C. 20003 (202) 547-9009

February 12, 1986

Mr. Robert S. Chandler
Superintendent
Olympic National Park
600 E. Park Avenue
Port Angeles, WA 98362

RE: L1417, Environmental Assessment for Proposed Land Exchange Between Olympic National Forest and Olympic National Park and for Minor Boundary Modifications to the Park

Dear Mr. Chandler:

National Audubon Society objects to several features of the proposed boundary modifications and land exchange as set forth in the Environmental Assessment of December 1985. We further believe that some of the environmental impacts of this exchange, if completed, may be severe enough to require preparation of an Environmental Impact Statement.

General Observation. The general effect of these "minor adjustments" would be an addition to the national park of 718 acres (1,954 from the Forest to the Park, and 1,236 from the Park to the Forest). We have always supported the concept of adding more lands to Olympic National Park wherever possible, because, unfortunately, it seems to be the only way that lands on Olympic National Forest are going to be given any protection whatsoever short of making them part of the Wilderness Preservation System. We wish we lived in a different world, where the management of Olympic National Forest did not feel that every tract of land which has big trees on it and is accessible, therefore must be logged -- if it can be done without public outcry. But that is the situation today, and so we must look elsewhere for protection of valuable resources.

In this context, we would urge several other additions, of a minor, but important nature, to the national park. We favor the additions of Pine Mountain, Mount Baldy, and parts of Barnes Creek to the park, as well as the excellent addition at the east end of Lake Crescent; this will give more permanent protection to important resources than we can expect under Forest Service or private management. We would also urge inclusion of the remaining portions of the Alckee Creek drainage now within the national forest, by extending the boundary of the park north-northeast from Pine Mountain along the ridge line of the divide between Alckee Creek and the South Fork Soleduck River. Such an addition would protect the approaches to Pine Mountain, a known habitat of the rare spotted owl, a species which needs to travel extensively about its habitat for necessary food and shelter.

Objections. Unfortunately, we do have several objections to the modifications and exchanges, where important parkland resources are being transferred to the national forest. While all parts of the exchange are of concern, because it is certain that their splendid forests will be logged soon, of most concern is the transfer of the 647 acre Prairie Creek parcel just northwest of Lake Quinault from park to forest. A large portion of this area contains an increasingly rare and valuable resource: low elevation old growth forest. Judging from the topographical maps, several hundred acres appear to be below 1,300 feet -- a most unusual forest type to be found anywhere on public lands in the northwest these days in a protected status.

As we examine closely the characteristics of each parcel proposed for exchange from one jurisdiction to another, a pattern does become clear: the National Park Service is giving up lands with heavy timber volumes and higher quality wood, which can be logged relatively easily; and the Forest Service is giving up lands which, although classified as "commercial," cannot be easily logged either for economic, ecological, or political reasons. Let us look at the major areas of the exchange to substantiate this point.

Storm King/Baldy: Here, all the land in question is to be transfered from the forest to the park. Much of it is above 3,000 feet in elevation. The EA says "this area is characterized by rock outcrops, steep cliffs, and forested valley floors . . . . The area has many sheer cliffs, rocky outcrops, and steep slopes." In other words, logging any of it would be most difficult, and result in high breakage. Further, just to get at it would require building a logging road up steep slopes, cross over the ridge to the north, and then drop down into the pristine valley of Barnes Creek right above the park -- likely an ecological and asthetic as well as an economic impossibility. This is land that the Park Service "gets."

Rugged Ridge/Pine Mountain: Pine Mountain, which is transferred from forest to park, is documented habitat for spotted owls and is allegedly important for the park elk population also. But the question is -- would even the Forest Service log it if it remained under forest jurisdiction? Probably not from a biological standpoint, because of its importance to spotted owls. And probably not from an economic standpoint either. Here is what the EA says: "The Pine Mountain portion of the area is all commercial timber located on steep and rocky slopes . . . . If logged, this area would have heavy breakage due to the steepness and slope characteristics."

In "return" for "receiving" the Pine Mountain area which is unlikely to be logged, the park gives up its last lands in the Sitkum river watershed. This, according to the EA, is "all old growth forest ecosystem over 400 years in age." Although it is "low grade high defect," it has a net volume of 40,000 board feet per acre -- a very impressive amount. Nothing is said about steep and rocky slopes or breakage, as is said about Pine Mountain. The lands given up even have five percent western red cedar . . . something very unusual any more in the Olympic peninsula outside of protected areas. There is no doubt that this area will be logged very quickly.

Quinault: Here all the lands are to be taken out of the park and given to the forest. This is the Prairie Creek drainage, above mentioned, which has considerable lands below 1,500 feet. "The area is all old growth timber over 200 years in age . . . . Productivity varies from moderate to poor . . . volume is 73,000 board feet per acre . . . . Percentage of western red cedar is ten percent." In other words, here we have an area that while not perfect for logging, has an enormous volume, a lot of valuable red cedar, and is low elevation old growth, the scarcest and most hard to find forest resource in North America.

To sum up, the Forest Service gives up mainly lands it would not or could not log anyhow, for various reasons. The Park Service gives up lands that, of course, it would not log, so that they can be logged. The Forest Service gives up lands that it would probably be obliged to protect in any event, while the Park Service gives up lands it is obliged to protect, so that they can be logged. Most importantly, the resources given up, low elevation old growth, cannot be replaced anywhere.

This is why we believe that while additions to the park are very much in order in the places above mentioned, the exclusions by and large are not in the public interest. We therefore object to the exchange, and request that a full Environmental Impact Statement be prepared to discuss the loss of valuable low elevation old growth forest.

Sincerely,

Brock Evans

Brock Evans
Vice President for
National Issues

cc: Ted Stubblefield
Supervisor
Olympic National Forest
P.O. Box 2288
Olympia, WA 98507

Seattle Audubon Society

Audubon Society, Washington State Office

Audubon Society, Western Regional Office

Sierra Club

Olympic Park Associates

National Wildlife Federation

The Wilderness Society

699F

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

CROWN ZELLERBACH)) Applications for) Major Licenses)))	Project Nos. 588 (Glines Canyon Dam) and 2683 (Elwha Dam)

SEATTLE AUDUBON SOCIETY, FRIENDS OF THE EARTH, OLYMPIC PARK ASSOCIATES, AND THE SIERRA CLUB

MOTION FOR LATE INTERVENTION; PETITION TO CONSOLIDATE PROCEEDINGS; PETITION TO DENY LICENSE APPLICATION NO. 588; PETITION TO DENY LICENSE APPLICATION NO. 2683; PETITION FOR REMOVAL OF GLINES CANYON DAM PROJECT NO. 588; AND PETITION FOR THE REMOVAL OR REHABILITATION OF ELWHA DAM PROJECT NO. 2683

Pursuant to Section 308 of the Federal Power Act, 16 U.S.C. Section 825g, and Rules 207 and 214, 18 CFR Sections 207 and 214, the Seattle Audubon Society, Friends of the Earth, Olympic Park Associates, and the Sierra Club move to intervene in these proceedings. They also move and petition that the proceedings be consolidated, an environmental impact statement be prepared, the license applications be denied, and that the environmentally damaging Glines Canyon and Elwha dams be removed.

Service of process and other communications concerning these motions should be made to:

Robert Y. Grant
President,
Seattle Audubon Society
619 Joshua Green Bldg.
Seattle, WA 98101

Dale Jones
Northwest Representative
Friends of the Earth
4512 University Way N.E.
Seattle, WA 98105
(206) 633-1661

Polly Dyer
President,
Olympic Park Associates
13245--40th Ave NE
Seattle, WA 98125
(206) 364-3933

Al Friedman
Chair
Cascade Chapter, Sierra Club
1516 Melrose
Seattle, WA 98122
(206) 621-1696

I. BACKGROUND

Applicant Crown Zellerbach has filed applications under the Federal Power Act (16 U.S.C. Sections 791(a)-825(r)) for major licenses for the continued operation of the Glines Canyon Dam, Project No. 588, and the Elwha Dam, Project No. 2683. Both projects are located on the Elwha River in Clallam County in the state of Washington: Project No. 588 is located at river mile 13.5 on lands entirely within the Olympic National Park, and Project No. 2683 is located at river mile 4.9 on lands outside of the Park.

The Elwha Project No. 2683 was constructed by Olympic Power Company in 1911-1913 and was purchased by Crown Zellerbach in 1919. The Elwha development has never been licensed by the FERC or by the Federal Power Commission. Following the decision of the United States Supreme Court in the Taum Sauk case, Union Electric Company v. FPC, 381 U.S. 90 (1965) Crown Zellerbach filed an application for the Elwha Project. Further legal motions led to a decision by an FERC administrative law judge in 1978 in which it was ordered that FERC does have jurisdiction over the Elwha Project, and that Crown Zellerbach should refile its license application. This the corporation did in 1979.

The Elwha Dam is a 100-foot high, 417-foot long concrete gravity dam. It has a total installed capacity of 10.8 MW and there are two 69-kV transmission lines to the Port Angeles Mill (one 7 miles long and one an additional 2.75 miles to the Bonneville Power Administration substation) which services both this and the Glines Canyon Dam. The dam impounds a 580-acre reservoir (Lake Aldwell).

The Glines Canyon Project No. 588 was initiated in 1926 by Northwestern Power and Light Company (successor to the Olympic Power Company), and was completed in 1927. Crown Zellerbach Corporation acquired title to the dam in 1936. In 1938 the Olympic National Park was created, placing the existing dam and its reservoir within the Park. No provision was made for the project in the legislation creating the Park.

The Glines Canyon Dam is a 200-foot high, 860-foot-long dam constructed in five distinct sections. It has a total installed capacity of 14.83 MW, and an 8-mile-long transmission line which connects with the powerhouse for the Elwha Dam. The dam impounds a 400-acre reservoir (Lake Mills).

II. INTERESTS OF THE MOVANTS AND PETITIONERS

The Seattle Audubon Society is a non-profit corporation, organized and existing under and by virtue of the laws of the State of Washington, having its principal place of business at 619 Joshua Green Building, Seattle, Washington 98101. Settle Audubon was founded in 1916 as the first natural history organization in Washington. The objectives of Seattle Audubon Society are to promote the study and conservation of birds and other wildlife and fish, together with their habitats, and to increase public awareness of the values of wildlife, plants, and the natural environment. Seattle Audubon has intervened in the proceedings for Western Power, Inc. Project No. 5305-001 (Storm Ridge), Thornton Lake Resource Company, Project No. 4412-001 (Thornton Creek), and Damnation Peak Power Company, Project No. 4435-005 (Damnation Creek), and Ruby Limited Partnership, Project No. 9196-000 (Ruby Creek and others) before the FERC.

Olympic Park Associates is a non-profit corporation, organized and existing under and by virtue of the laws of the State of Washington, having its principal place of business at 13245--40th Avenue NE, Seattle, Washington 98125. Olympic Parks Associates was formed in 1948 for the specific purpose of protecting the wilderness and natural resources of the Olympic Peninsula. Olympic Park Associates has been granted intervener status in various proceedings before this Commission, including Rainsong Company, Project No. 6287-000 (Lena Creek); Hydro Resources Company, Project No. 5495-000 (Dungeness River); Mason County Public Utility District No. 1, Project No. 3322-000 (Duckabush River); and Olympus Energy Corporation, Projects No. 6617-000 (Silver Creek) and No. 6840-000 (Tyler Peak).

Friends of the Earth is a non-profit national conservation organization incorporated in the State of New York, having as its principal place of business 530 7th Street S.E., WA D.C. 20003. Friends of the Earth is dedicated to the preservation, restoration and rational use of the Earth's resources. There are approximately 2000 members of Friends of the Earth in the Northwest and over 20,000 nationwide. Friends of the Earth has appeared before the FERC in various proceedings.

The Sierra Club is a non-profit national conservation organization incorporated in the State of California, having its principal place of business at 730 Polk Street, San Francisco, California 94109. The Club was formed in 1892 to explore, enjoy, and preserve the nation's forests, water, wildlife, and wilderness. There are over 10,000 members in the Northwest, over 250,000 nationwide.

Members of Seattle Audubon Society, Friends of the Earth, Olympic Park Associates, and the Sierra Club make use of the lands in the Elwha River Valley for scientific study, educational endeavors, and for photography, bird-watching, fishing, hiking, camping, and other forms of recreation. The conservation, ecological, recreational, and aesthetic interests of the members of these organizations would be directly and adversely affected by the licensing and relicensing of the Applicant's projects.

These Movants and Petitioners have a strong and continuing interest in land and energy planning and management for the National Park and the Olympic Peninsula, as well as other parts of the state of Washington and the Pacific Northwest. The Movants and Petitioners have previously spoken with the National Park service and other agency staff of their concerns regarding these hydropower projects on the Elwha River. Seattle Audubon Society, Friends of the Earth, Olympic Park Associates, and the Sierra Club furthermore actively and continuously contributed to planning efforts for the implementation of the Pacific Northwest Electric Power Planning and Conservation Act and its provisions for the complete revision of energy planning in the Pacific Northwest and for the protection, mitigation, and enhancement of fish and wildlife resources.

GROUNDS FOR MOTIONS

III. MOTION FOR LATE INTERVENTION

A. The Licensing Applications are Old and Stale--

The legal and statutory framework for making environmental and resource decisions has changed considerably in the decade since the applications for Projects 588 and 2683 were accepted by the Commission, and the detail and sophistication of environmental reporting and analysis has improved tremendously. The present applications are old and outmoded: they are several times amended, they do not address important issues, they are not in the form that the Commission currently requires of applicants, factors related to project feasibility--such as projections of the need for power and the availability of alternative sources of energy--may have changed. The changes that have occurred lead the Movants and Petitioners to seriously question the feasibility of, benefit of, and/or authority for relicensing these projects. The

Commission has found in Nebraska Public Power District 10 FERC 61,272; (March 21, 1980) that

> [t]he data that is necessary to support an application can not just be stored for a period of years and then simply reactivated as is. Interim changes in relevant factors such as the source of pumping power and project costs would have to be evaluated, and the application may require substantial revision. These changes would best be presented in the form of an entirely new application-rather than a patched-up version of a long pending one.

We believe that it is appropriate to apply this principle to these proceedings and to allow intervention of interested and affected public groups.

B. Major changes have occurred in the statutory and legal framework since these license applications were prepared which are important to the consideration and evaluation of resources and impacts at tissue in these proceedings. Late intervention is thus appropriate for the full consideration of these important changes.

1. The Pacific Northwest Electric Power Planning and Conservation Act 16 U.S.C. Sections 839 et seq.--The Act directed the Northwest Electric Power Planning and Conservation Council to promptly develop and adopt a power plan which would

> set forth a general scheme for implementing conservation measures and developing resources. . .with due consideration by the Council for environmental quality and the protection, mitigation, and enhancement of fish and

> wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish. . .[16 U.S.C. 839b(e)(2)].

This directive applies both to the Columbia River Basin and to the non-Columbia basins, including those on the Olympic Peninsula.

2. The Ninth Circuit Court of Appeals (in whose circuit the State of Washington is included) has found in Confederated Tribes and Bands of the Yakima Indian Nation v. FERC, 734 F.2d 1347 (9th Cir. 1984), cert. denied ___U.S.___, 105 S.Ct. 2358 (1985), that relicensing must be treated and evaluated to an extent comparable to that of initial licensing proceedings, and that prior to the issuance of a new license the FERC must study the effects of a project on fish and wildlife resources and on recreational purposes.

C. No prejudice to, or additional burdens upon, the existing parties would result from granting this motion--

The interests raised by the Movants and Petitioners are grounded in the statutes of the United States. There would be no disruption or delay in the proceedings: relatively little ~~act~~ivity (except in the area of dam safety) has taken place in these proceedings for years. The proceedings are still at a stage where the issues raised by the Movants and Petitioners may be addressed in the normal course of the proceedings.

. Granting the motion for late intervention would be in the public terest--

1. The interests of the Movants and Petitioners are not adequately covered or represented in the two existing proceedings--The current parties and intervenors do not adequately represent the breadth and depth of issues and concerns of the Movants and Petitioners. Full discussion and resolution of these issues and concerns is necessary to the fulfillment of the mission of the FERC, and thus intervention is in the public interest.

2. Points of fact and law are raised which must be addressed by the FERC in its deliberations--The views of informed and concerned members of the public are relevant and germane, and full participation and intervention in these proceedings by the Movants and Petitioners is in the public interest.

E. The Commission has previously granted late interventions in these proceedings--

The precedent for granting late intervention in these proceedings has already been set. The Washington Department of Ecology and the Secretary of the Interior were both permitted to intervene out of time.

IV. PETITION TO CONSOLIDATE PROCEEDINGS

A. THE PROJECTS ARE HYDRAULICALLY AND ELECTRICALLY COORDINATED AND ARE

OPERATED CONJUNCTIVELY

1. The power transmission lines from the Glines Canyon Project travel eight miles to the Elwha powerhouse, where the power from the two dams is comingled and is carried on one primary transmission line to the Applicant's mill in Port Angeles (cf. the Application for Glines Canyon Relicensing, No. 588, page 3 and in several places thereafter).

2. A study for the Bureau of Indian Affairs by Morrison-Mairie, Inc., consulting engineers in Helena, Montana (presented to the FPC on behalf of the Dept. of the Interior on July 14, 1977 and docketed for Project No. 2683 on July 18, 1977), indicates that in low flow conditions the Glines Canyon Dam has been operated to increase power at the lower (Elwha) dam over what conditions would otherwise allow.

B. Both dams present complete barriers to fish passage in the river. (See, for example, letter from the Dept. of the Interior, Aug. 18, 1978 docketed for Project No. 588 on Aug. 21, 1978.) Consolidated review will facilitate addressing the fish and wildlife issues and impacts of these projects.

V. PETITION TO DENY LICENSE APPLICATION NO. 588, AND PETITION TO DENY LICENSE APPLICATION NO. 2683

THE COMMISSION HAS NO AUTHORITY TO RE-LICENSE PROJECT NO. 588

1. Relicensing must be approached as an entirely new and fresh evaluation of the legal situation and the best use of each project upon expiration of the license. As the 9th Circuit Court of Appeals found in Yakima Indian Nation v. FERC, supra at 1357-1358,

> If the United States does not exercise its right of take-over, the '[C]ommission is authorized to issue a new license to the original licensee upon such terms and conditions as may be authorized or required under then existing laws and regulations.' 16 U.S.C. Section 808a....the decision to relicense is to be based on the same inquiry as original licensing, including a consideration of all relevant harms and benefits to public uses related to the project. The Commission must determine whether any changes in operations are required by 'then existing' law and has full authority to impose such changes.

2. Congress has limited the FERC's jurisdiction by directing that the Commission shall not issue licenses for hydroelectric projects in parks and monuments of the National Park System. In 1921, Congress passed 41 Stat. 1353, by which it intended to limit the jurisdiction of the Federal Power Commission which had been established the previous year. In discussing the purpose of the legislation on the floor of the House, Rep. Esch, Chairman of the Committee on Interstate and Foreign Commerce, explained,

> Mr. Speaker, the object of the bill is to modify the Federal water power act so as to eliminate from its provisions national parks and monuments. When the act was originally passed we supposed we had sufficiently

> safeguarded national parks and monuments. . .so that there would not be constructed therein any water power or reclamation projects. However, . . .an understanding was reached whereby the bill was to be introduced at this session eliminating the parks and monuments from the operation of the Federal power act, and this bill carries out that understanding. 60 Cong. Rec. 4204 (1921) [see also 60 Cong. Rec. 403 and 2002 (1921)]

Likewise, the amendments to the Federal Power Act of 1935 are of relevance. Section 201 of the act, 49 Stat. 838, redefined the term "reservations" by specifically excluding national parks and monuments. In commenting on the new definition of "reservation" the House Committee on Interstate and Foreign Commerce stated:

> The definition of the former term (reservation) has been amended to exclude national parks and national monuments. Under an amendment to the act passed in 1921, the Commission has no authority to issue licenses in national parks or national monuments. The purpose of this change in the definition of 'reservations' is to remove from the act all suggestion of authority for granting such licenses. H. Rep. 1318, 74th Cong. 1st Sess., p. 22.

3. The National Park Service Act of 1916 (cf. 16 U.S.C. Section 1 and 2-3 (1976)) sets forth the general standards governing the administration of the National Parks System. The Act explicitly recognizes the conservation of wildlife as among the purposes that the Parks are to serve:

> [T]he fundamental purpose of the said parks, monuments, and reservations . . . is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

Whether this statement of purpose imposes any judicially enforceable duties on the Secretary of the Interior in his administration of the System was presented in a series of court actions in which the Sierra Club challenged the adequacy of the Secretary's efforts to address threats to the resources of Redwood National Park. In response to judicial decisions Congress enacted the Redwood National Park Expansion Act, 92 Stat. 166, in 1978. One feature of the Act was the provision of a new and very rigorous general standard governing the exercise of the Secretary's discretion in managing all park areas. The standard was embodied in a directive that

> [t]he authorization of activities shall be construed and the protection, management, and administration of these [national park] areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. [16 U.S.C. Section 1a-1 (Supp. V 1981).]

The House Report accompanying this legislation described the intent of the foregoing provision to be "to afford the highest standards of protection and care to the land within Redwood National Park." H.R. Rep. No. 581, Pt. I, 95th Cong., 1st Sess. 21, reprinted in 1978 U.S. Code Cong. and Ad. News 463, 468. In fact, because the provision quoted above applied to all units of the National Park System, it reflects a directive that the "highest standard of protection and care" be given to the entire National Park System.

It is clear that Project No. 588 must be treated as if it were a new license, and furthermore that the FERC has no authority to license or relicense projects within the boundaries of the national parks without the explicit authorization of Congress. The project has no such authorization for licensing or relicensing by the explicit authorization of Congress. Project No. 588 may not be relicensed by the FERC and the operation of this project as a power dam within the National Park must cease.

B. THE PROJECTS ARE NOT IN THE PUBLIC INTEREST

1. The Elwha Dam was built in violation of Washington state law--

The State of Washington's first legislature passed a law (Session Laws, 1889-1890, pp. 106-109) in 1890 which required the construction of fish passage devices (e.g. fish ladders) on dams "wherever food fish are wont to ascend". The law was part of the State's wider fisheries authority concerning the length of commercial fishing seasons. It empowered the commissioner of fisheries to levy fines for violations and to obtain court orders for the removal or modification of illegal dams. Elwha Dam was built in violation of this law: when it was finished in 1912 it completely lacked fish passage facilities.

Glines Canyon Dam likewise was constructed without fish passage facilities.

2. The Projects Have Adversely Affected Important Fishery Resources of the Elwha River-

a. Affected Fishery Resources--Prior to the construction of the Elwha Dam the Elwha River supported significant runs of anadromous fish. Large numbers of chinook, coho, pink, and chum salmon, steelhead trout, sea-run cutthroat trout and sea-run Dolly Varden utilized over 40 miles of superb habitat on the mainstem of the Elwha River and various tributary rivers and streams (cf. A Catalogue of Washington Streams, Washington Dept. of Fisheries, 1975). With the completion of the Elwha Dam the river was completely blocked to anadromous fish passage at river mile 4.9. The result was the wholesale destruction of the anadromous fish runs of the Elwha River (see, for example, the Dept. of the Interior letter, Aug. 18, 1978). Glines Canyon Dam also presents a complete passage barrier and would have had devastating effects on the fisheries had not the Elwha Dam already killed off the upriver runs. Both dams present formidable barriers to the restoration of the river and the rehabilitation of the runs. The Applicant has funded a fish-rearing channel which artificially provides for some replacement of chinook salmon numbers, but losses to other species have never been mitigated (see Dept. of the Interior letter of Aug. 1978).

The two dams completely block the downstream movement of gravel and bedload material. This has led to an ever-decreasing amount of suitable spawning habitat for the few remaining natural runs in the river below the Elwha Dam. Furthermore, fluctuating flows and sudden releases of waters from the dams have had very serious adverse impacts on the downstream fishery and its habitat (see, for example, FERC Appraisal Report: Elwha River Basin, 1981). Much of the remaining small gravel downriver of the Elwha Dam has been removed by this flushing and scouring action over the years. While the situation of the flow fluctuations has improved in recent years, for more than five decades the downstream fish habitat suffered such impacts. No mitigation has been made for these major impacts.

b. Potential Project Impacts Should Licensing and Relicensing Occur--Were Project No. 2683 to be licensed and Project No. 588 to be relicensed, they would continue to have severe impacts on the fisheries of the Elwha River. The natural migration of anadromous fish to one of the Pacific Northwest's finest fish habitat areas would continue to be completely blocked. The 1968 Application for Project No. 2683 completely denies this impact: In its Exhibit S, "Effect of Project upon Fish and Wildlife Resources" the statement is made that "there is no known present effect on fish and wildlife resources." Again, in Exhibit W, the Application states that "continued operation under a license should have no adverse cumulative or other environmental effects". These statements completely ignore the terrible past, continuing, and cumulative impacts of these projects.

Subsequently, the Applicant has claimed (Project No. 2683, Exhibit

S, May 1973) that "it is difficult now to determine the effect of the construction on the then existing ecosystem." In the 1979 Application for Project No. 2683 it is stated (Exhibit S) that "there is very little evidence of the effect of the dam's construction on fish and wildlife in and around the Elwha." On the contrary, the evidence of the destruction of the fisheries of the Elwha is all too clear. Accounts from the years immediately following the construction of the Elwha Dam tell of the many fish which perished by not being able to pass the Elwha Dam (cf. Chapter 4 in Mountain in the Clouds: A Search for the Wild Salmon, 1982). The many miles of river which are today devoid of anadromous fish tell the same story. The natural resource agencies in their letters to the Commission, have spoken of this decimation of the fish populations by the two Elwha River dams (cf. Petitions to Intervene in Projects No., 588 and 2683, Wash. Dept. of Game; letters of Sept. 19, 1980 and Aug. 18, 1978, U.S. Dept. of the Interior). The application for Project No. 588 makes statements similar to those found in the application for Project No. 2683. For example, in Exhibit W Summary: "The approval of the application for relicense of this project would not have any detrimental effect on the area's environment." Once again, the continuing massive impacts of this project on the Elwha River fisheries through complete blockage of access to upriver areas are ignored.

The applications also completely miss any discussion of impacts, past and future, on bedload movement. Seventy years of blockage of bedload movement have had major impacts on the downstream fisheries;

continuation of this impact could lead to the final extinction of all of the natural Elwha fisheries.

c. The Applicant has Derived Substantial Benefits from a Public Resource without Accepting Responsibility for Maintaining the Fisheries within that Resource--The above discussion has shown that most impacts over the 50-70 year operation of these projects have not been mitigated, in many cases not even acknowledged. What mitigation there has been is directed completely towards artificial production of chinook salmon. Mitigation for past losses of all anadromous species is due the people of Washington and the United States. Furthermore, the licensing/relicensing process must examine the Applicant's responsibility for restoration of the fisheries of the Elwha River and for full instream passage of the runs. The Applicant must no longer be allowed to derive substantial benefits from public resources while externalizing costs to the environment (compare letters from the Dept. of the Interior, Sept. 19, 1980--docketed Sept. 24 for Project No. 2683--and Aug. 18, 1978 for Project No. 588).

d. The applications fail to address treaty rights that might be asserted by the Lower Elwha Tribe.

3. The Projects Adversely Affect Important Wildlife and Plant Resources--

a. Habitat Losses--The two dams have drowned 1,020 acres

acres under the waters of their reservoirs (440 acres under Project No. 588's Lake Mills, and 580 acres under Project No. 2683's Lake Aldwell). Riparian and old-growth forest areas provide habitat for numerous game and nongame wildlife species; when these areas were submerged under the two reservoirs substantial areas of habitat including big-game winter range were lost, together with existing and future populations of wildlife which these areas supported and could have continued to support (see, for example, "Preliminary Analysis of Game Fish and Wildlife Resources of Elwha River Drainage Affected by Elwha and Glines Dams", Wash. Dept. of Game, 1973; Petitions to Intervene, Wash. Dept. of Game, supra). Further losses were suffered by clearing areas for the transmission lines and the project facilities. These habitat and population losses would continue to be suffered by the wildlife species if the projects were licensed/relicensed.

The applications, in discussions of fish and wildlife impacts in Exhibits S and W, belittle or ignore the impacts to wildlife and wildlife habitat (see citations in the fisheries section above).

b. Loss of Food and Nutrient Sources--The soils of the Elwha River Basin are mineral-poor, their minerals have been leached out by the heavy rains which are characteristic of this portion of the Olympic Peninsula. The tons of fertilizer which were returned each year to the river in the form of carcasses of anadromous salmonoids were critical for the well-being of the ecosystem (Richey, J., et al., J. Fish Res. Bd. Can. 32: 817-820, 1981; Sedell, J., et al., Oregon State

University Report, 1983). The most benefit was to the fishery itself, but also of great importance were the contributions of these carcasses to the support of wildlife populations (see Wash. Dept. of Game, 1973, supra; Houston, D., Nat. Park Service Report, 1983; Houston, D., and R. Contor, Olympic Wild Fish Conference, pp. 97-111, 1983; Sedell, J., et al., supra; Hunt, W., and B. Johnson, Seattle City Light Report, 1981).

The spawned and dead fish functioned as a source of protein for carnivores and omnivores. Even the mighty cougar, the Olympics' greatest predator, subsisted to a surprising degree on salmon during the lean winter months. The water temperatures are low enough that spawned carcasses remain in good condition for a considerable time, extending the period during which the fish provided dietary supplementation or sustenance.

Wintering herbivores also benefitted from the fertilization of vegetation and the resultant greater growth both in the stream and along the banks. This process extended a surprising distance from the streams, as animals dragged carcasses from the stream for good distances into the brush to be devoured. In those days of plenty, most of each carcass was left, as the animal constantly went for fresh ones, and this formed a rather effective distribution for a considerable distance on each side of the stream. The Roosevelt elk, for the protection of which the Olympic National Park in large part came into being, was one of the major recipients of the benefits of the fertilization process, for one of their important winter feeds is willow bark from the streamsides.

The Project applications do not discuss these impacts.

c. Rare, Threatened, and Endangered Species--The loss of the protein source of the returning salmon and the loss of riparian areas due to raising of the reservoirs has led to a reduction in the carrying capacity of the upper drainage for cougar, several mammalian species of the mustelid family (including fisher and marten), the bald eagle (a threatened species listed under the Endangered Species Act, 16 U.S.C. Section 1531 *et seq.*), and possibly the northern spotted owl (a state-listed threatened, proposed endangered, species).

d. International Biosphere Reserve--The Olympic National Park still retains all of its native species (with the exception of the wolf, for which species reintroduction has been proposed). In recognition of this fact and of its protected status the Park was designated an International Biosphere Reserve. The primary goals of Biosphere Reserves are to (1) conserve for present and future use the diversity and integrity of biotic communities of plants and animals within natural ecosystems and to safeguard the genetic diversity of species upon which their continued evolution depends; (2) provide areas for ecological and environmental research, including baseline studies; and (3) provide facilities for education and training. The presence of Project No. 588 detracts from this purpose; moreover, the blockage of anadromous fish migration by both dams reduces the capacity of the Park to support animal and fish populations, impairing its performance of its role as a Biosphere Reserve. Licensing and relicensing would continue this impact on the Biosphere Reserve. The project applications do not discuss this impact of licensing and relicensing.

4. The Projects Adversely Affect Important Recreational and Aesthetic Resources--

a. Olympic National Park--One of the great treasures of the American people, the Olympic National Park is a unique combination of ocean shores, temperate rain forests, mighty rivers, alpine meadows, rugged mountains and glaciers. It is also one of the world's greatest wildlife refuges. This great heritage has been recognized by international designations (International Biosphere Reserve and World Heritage Site--see below) and by the national and international tourism which selects the Park as one of the "must visit" places in the U.S.

The Olympic National Park is predominantly a wilderness park. It was originally conceived as such, and its unique character and heritage can only be preserved by retaining it in its unspoiled condition. Several management mistakes of the past (introduction of non-native species, etc.) are being gradually corrected; the dams on the Elwha River are major impacts to the Park which should be corrected as part of the licensing/relicensing review.

b. The Elwha River--The Elwha is the largest watershed in the Olympic National Park. The Elwha River leads out from the heart of the Olympics, and it was and is utilized as a route of entry to the interior. It is a swift stream which is often deceptively smooth. At times it plunges through gorges with vertical walls, then flows quietly through gravel beds and into deep pools. Beyond the Park boundary it flows through broken lands committed to forestry and ranching, down to the Strait of Juan de Fuca. Historically the Elwha contributed to the production of some of Puget Sound's major salmon runs. More than forty miles of mainstem and tributary habitat are totally barred to anadromous access and use as a result of the dams (Washington Dept. of Fisheries, A Catalogue of Washington Streams, 1975).

c. Recreation--Recreation of many sorts takes place in the Elwha River Basin, from motoring to hiking, camping, climbing, and skiing. Most of the valley is roadless; access to these areas is by trail. There are nearly two dozen trails in the drainage, among the most popular in the Park.

The direction of Olympic National Park management is to provide for limited access and for more primitive recreational use of the drainage. The Glines Canyon Project (no. 588) is highly discordant to this approach. To visitors to the Park the Glines Canyon Dam and its reservoir Lake Mills are intrusions into the natural scenery and beauty of the Park. The immediate vicinity (in its present condition with the Glines Canyon Dam in place) of Project No. 588 has few attractive qualities of any significance, and is bypassed by almost all visitors to the Elwha Basin. Removal of the Dam and restoration of the area to natural conditions would correct this situation and restore the natural beauty.

Once an anadromous fish stream, the Elwha River above the Elwha Dam can now be fished only for resident trout. Below Elwha Dam anadromous fish species may be fished: some individuals reach quite noteworthy size. Once such fish could be hooked throughout the Elwha system. This is a major past and continuing impact of the Elwha and Glines Canyon dams.

5. The Projects Adversely Affect a World Heritage Site--

In 1983 the Olympic National Park was designated a World Heritage Site by the United Nations. There are 11 such sites in the United States (including the Redwoods National Park and Independence Hall in Philadelphia). It is a distinguished and exclusive designation, given to such notable sites as the Pyramids of Egypt, the Taj Mahal of India, and other great works of man and nature.

The creation of World Heritage Sites evolved from the idea that certain natural and cultural sites have universal value and are worthy of international recognition, respect, and protection. Criteria for World Heritage Site selection include those truly unique sites that had an impact upon history, illustrate significant geological processes, may be crucial to the survival of threatened plants and animals, or contain features of superlative natural beauty. The natural sites ensure the maintenance of the natural diversity upon which all mankind depends.

The World Heritage Site program has authority through the Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States Senate on October 26, 1973, and the National Historic Preservation Act Amendments of 1980 (P.L. 96-515; 94 Stat. 2987).

Project No. 588 physically impacts this World Heritage Site and both projects greatly and adversely affect its fish and wildlife resources, the very resources for which the Site was designated. The applications, being old and outdated, do not note this important development and the future impacts of the Projects to this World Heritage Site. The applications do suggest that "There are no unique or unusual features about the area" (cf. Project No. 588, Exhibit W); we, and, as described above, the United Nations disagree. The project area for No. 588 is currently in an undesirable condition; this could, however, be corrected and the area could once again contribute to the beauty and value of the Olympic National Park. Moreover, a restored Elwha River would present one of the few, perhaps only, opportunities outside of Alaska for visitors to see large spawning steelhead trout and salmon in our national parks. The area surrounding project No. 2683 is more altered than that around Project No. 588, but the upstream area of the Park would receive great benefit as a result of laddering the dam for fish passage or by the dam's removal and the restoration of the lake area to natural conditions.

6. The Projects Adversely Affect the Ediz Hook Area--Ediz Hook, a natural gravel spit which extends into the Strait of Juan de Fuca and forms the natural harbor of Port Angeles has been in danger of being destroyed by the lack of natural gravel recruitment. More than 13,000 cubic yards of material are being lost annually, due in large part to the blockage of the Elwha River by the dams. To date more than 1 million dollars has been spent to try to halt and correct the erosion of this spit; it has been designated a "major problem area" in the U.S. Army Corps of Engineers National Shoreline Study.

7. The License Applications are Deficient--

a. Fisheries, Wildlife, and Plants--As noted above, the applications in all versions completely neglect numerous adverse impacts on fish, wildlife, and plants of the past and present, and of future impacts as well. The applications furthermore seriously misrepresent the nature and severity of other impacts and erroneously suggest that past impacts cannot now be determined.

b. Safety--The application for Project No. 2683 does not adequately discuss human safety concerns. The project has a history of design and structural problems extending from the time of initial construction to the present. The U.S. Army Corps of Engineers, the Wash. Dept. of Ecology, and FERC staff have all found the dam to be unsafe for probable maximum flows (see FERC Appraisal Report, 1981, supra). The Commission should consider in its review whether design and structural problems can be safely and efficiently corrected or whether this 70-year-old project has reached the end of its useful life and should be removed (see also Sept. 19, 1980 letter of the Dept. of the Interior).

c. Need for Power and Energy Alternatives--Energy planning in the Pacific Northwest is largely accomplished through the provisions of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. Section 839 et seq., and the Northwest Conservation and Electric Power Plan developed pursuant to the Act. Under the Act and Plan the first priority for new energy resources is energy conservation, followed by renewable resources which assure the protection, mitigation, and enhancement of fish and wildlife resources. There is no mention of conservation in the discussion of need for power in the applications (confer Exhibits W). The applications indicate that Glines Canyon Dam (Project No. 588) provides 25-30% of the Crown Zellerbach mill's power requirement, and that Elwha Dam (Project No. 2683) provides about 15-20% more of the requirement. The remainder of the power requirement is purchased power from Bonneville Power Administration (confer the FERC Elwha River Basin Report, March 1981, Page 10). Further power could be obtained through BPA, in contradiction to such statements as "There is no other alternative source or outside source available in the area." (cf. the Summary of Environmental Statement in the application for Project No. 588).

The applications in the Exhibits W state that the operations "will continue to ... prevent any additional demands on an already short supply of power in the area." The reality of the situation is that all current energy demand forecasts project that the region will enjoy a surplus of power into the 1990's or beyond. (See Bonneville Power Administration, Forecasts of Electricity Consumption in the Pacific Northwest (June, 1985; Northwest Power Planning Council, Pacific Northwest Conservation and Electric Power Plan (1983; final second Plan, 1986).) The most recent forecast of the region's utilities, long the most cautious of the groups involved in such efforts, projects that the surplus will now last until 1994. Pacific Northwest Utilities Conference Committee, Northwest Regional Forecast of Power Loads and Resources, July 1984-June 2004 (March 1984). Growth in the regional energy demand has in fact been lower than the Council's lowest projection, suggesting that the surplus will last beyond the turn of the century. Moreover, the Council has identified many opportunities for conservation in the region to fill the needs projected to occur; in its lowest growth scenario all needs are filled by conservation for the next 20 years. The Council has in fact been very conservative in planning for conservation, and has included in its Plan only a portion of the already conservatively defined cost-effective conservation.

Both the need for power and energy alternatives (including conservation) must be fully explored in these proceedings. Even the most recent applications do not meet this requirement.

d. World Heritage Site and International Biosphere

Reserve-- Discussion of these international designations, and the impacts licensing and relicensing would have on them, are completely missing from the applications.

e. Historical and cultural values--The applications in Exhibits W and elsewhere deny the existence of any cultural or historic sites of value in the project areas. Given the history of the drainage as a gateway to the interior, the use of the area by native Americans, and the absence of studies supportive of this negative view, this assertion is questionable.

C. AN ENVIRONMENTAL IMPACT STATEMENT IS REQUIRED

1. The National Environmental Policy Act (NEPA) requires a federal agency to prepare an environmental impact statement whenever taking a "major federal action significantly affecting the quality of the human environment." 41 U.S.C. Section 4332(2) (A)(C). In the Ninth Circuit Court of Appeals, the standard for judicial review of agency decisions not to prepare an EIS is whether

> the plaintiff has alleged facts which, if true, show that the proposed project may significantly degrade some human environmental factor.

Foundation for North American Wild Sheep v. Department of Agriculture, 681 F.2d 1172, 1177-78 (9th Cir. 1982)(emphasis in original). Moreover, "if substantial questions are raised whether a project may have a significant effect, an EIS _must_ be prepared." _Id._ at 1178 (emphasis in original).

In these proceedings the Commission is being asked by the Applicant to permit continued operation of projects which have for more that 50 years blocked access of anadromous fish to more than 40 mainstem river and tributary miles of some of the finest salmon habitat in the state. During this time the dams have been operated coordinately without acknowledgment or oversight by the FERC. Project No. 588 lies wholly within one of America's finest national parks, a designated World Heritage Site and International Biosphere Reserve.

The Movants and Petitioners have raised questions of significant impacts of the projects to fisheries, wildlife and plants, recreational and aesthetic resources, and others. Important deficiencies have been found in the license applications which suggest that in important respects the discussions in the applications do not correctly represent the environmental effects of these projects. An environmental impact statement and more extensive investigation and discussion of impacts are necessary.

2. Relicensing is not simply a phase in an essentially continuous activity: It is much more. As is stated in _Yakima Indian Nation v. FERC_, supra at 1358:

> the purposes of the procedure imposed by Congress on

> relicensing underscore the necessity for an EIS. . .[T]he Federal Power Act contemplates much more than a mere continuation of the status quo when the decision is made to relicense. Relicensing is substantially equivalent to issuing an original license and one would assume that the FERC regulations governing the preparation of an EIS generally apply. See 18 CFR Section 2.80, 2.81 (1981).
>
> Relicensing, then, is more akin to an irreversible and irretrievable commitment of a public resource than a mere continuation of the status quo. See Environmental Defense Fund v. Andrus, 596 F.2d 848, 852 (9th Cir. 1979); Port of Astoria v. Hodel, 595 F.2d 467, 477-478 (9th Cir. 1979). Simply because the same resource had been committed in the past does not make relicensing a phase in a continuous activity. Relicensing involves a new commitment of the resource, which in this case lasts for a forty-year period. See Hodel, 595 F. 2d at 477.

Because of the legal questions, the major past and future environmental impacts, the procedures required on the decision to relicense, the purpose of relicensing, and irreversible commitment of resources if relicensing is granted, an EIS is required.

3. The Commission must also determine whether to recommend recapture of the projects or to issue a non-power license for the projects. 16 U.S.C. Section 807 and 808 (b).

> Non-power licenses may be issued at the motion of an interested party or on the Commission's own motion. Seemingly, the Commission would determine that a non-power license is necessary if it concluded that power production needs were outweighed by recreational or environmental considerations. Both the consideration of what conditions to attach to a new license and the questions involved in determining whether a non-power license is necessary necessitate the information prepared in an environmental impact statement.

Yakima Indian Nation v. FERC, supra at 1358.

The lowering of Lake Mills and restoration of the Glines Canyon

Project to natural conditions will need to be carefully considered: for example, the accumulated sediment behind the dam must be addressed. This necessitates an evaluation of the procedures and timetable which can best restore the area. The EIS should also be utilized to develop this evaluation.

VI. PETITION FOR REMOVAL OF GLINES CANYON DAM, PROJECT NO. 588

The arguments above demonstrate that:

1) the Commission has no authority to relicense Project No. 588 in the Olympic National Park;

2) there are accumulated past and continuing adverse impacts of Project No. 588 to fish, wildlife, plants, and recreation;

3) there are adverse impacts of Project No. 588 on an International Biosphere Reserve and World Heritage Site.

Project No. 588 may not and should not be relicensed. Operation of this project as a power dam within the national park, and its impacts to the environment, must cease.

The highest public good would be achieved by the removal of this environmentally damaging and statutorily unlicensable dam. Seattle Audubon Society, Olympic Park Associates, Friends of the Earth, and

Sierra Club petition for the removal of this dam under sections 23b and 26 of the Federal Power Act.

The Commission should enter an order to this effect and should further direct that appropriate steps be taken to abate the impacts of the project until it is removed. The Commission should also direct that engineering studies for removal of the dam be commenced, and a schedule and date for removal be established. Studies for the appropriate means and schedule for restoring the area to its natural state should also be directed by the Commission.

VII. PETITION FOR THE REMOVAL OR REHABILITATION OF ELWHA DAM, PROJECT NO. 2683.

The arguments above demonstrate that:

1) there are accumulated past and continuing adverse impacts of Project No. 2683 to fish, wildlife, plants, and recreation;

2) there continue to be questions about the structural integrity and safety of the dam.

The highest public good would be achieved by the removal of the environmentally damaging dam. Seattle Audubon Society, Olympic Park Associate, Friends of the Earth, and the Sierra Club petition for the removal of this dam under sections 23b and 26 of the Federal Power Act.

The Commission should enter an order to this effect and should further direct that appropriate steps be taken to abate the impacts of the project until it is removed. The Commission should also direct that engineering studies for removal of the dam be commenced (some preliminary studies have been prepared by the U.S. Fish and Wildlife Service), and a schedule and a date for removal be established. Studies for the appropriate means and schedule for restoring the area to its natural state should be directed by the Commission.

Alternatively, upon completion of studies and, after commitment by the Applicant to provide passage facilities for full and safe passage of all anadromous fish, rehabilitation to provide for a structurally sound and safe dam which can safely pass a full probable maximal flood (PMF) in the absence of Glines Canyon Dam (which will be removed) and mitigation for past losses of fish and wildlife and for upstream and downstream degradation of habitat and blockage of downstream gravel recruitment, the Commission could elect to license the Elwha Dam. However, all above conditions must be met: the impacts of the Elwha Dam to the environment must cease.

VIII. POSITION OF THE MOVANTS AND PETITIONERS

Neither license application adequately addresses the past, present, or future environmental impacts of the projects, nor the measures necessary to mitigate substantial losses and disruptions of fish resources, and other ecosystem components caused by the initial construction and continued operation of the projects. The position of the Seattle Audubon Society, Friends of the Earth, Olympic Park Associates, and Sierra Club is that the resources and values of the Elwha River and of the Olympic National Park must be protected from further harm, and that the adverse effects of past project construction and operation must be redressed. With respect to Project No. 588 (Glines Canyon Dam) and Project No. 2683 (Elwha Dam) this requires that:

A. The separate proceedings for Projects 588 and 2683 should be consolidated into a single proceeding.

B. The license application for Project No. 588 should be rejected because the Commission has no authority to relicense the project within the Olympic National Park, and because the continuance of the project is not in the public interest. The Commission should direct the current licensee to commence the removal of the dam and restoration of the site to natural conditions as elaborated in an EIS and other studies and in cooperation with the National Park Service.

C. The license application for Project No. 2683 should be rejected as not being in the best interests of the public to license. Should the Commission deem otherwise, the application should nevertheless be rejected as deficient unless and until full investigation and commitments are made for the protection, mitigation, and enhancement of the fisheries and wildlife of the Elwha River, for safe operation of the dam, and for appropriate mitigation for the fisheries and wildlife losses of the past.

D. The Commission should develop an EIS which addresses fishery, wildlife, recreation, safety, and other impacts, issues, and mitigation measures. The EIS and other studies should develop a plan for the removal of the Glines Canyon Dam (No. 588) and for the restoration of the dam and reservoir areas to natural conditions.

E. After the completion of an EIS and other studies, should a license be issued to Project No. 2683 it must include specific license conditions to protect fisheries, wildlife, recreation, human safety, and other resources, and to mitigate for past losses. These must include but are not limited to:

1. passage facilities to provide full and safe access of all anadromous fish to and from the upper river;
2. structural design and human safety requirements, including the ability to safely pass probable maximum flood flows;
3. mitigation for past losses of fish and wildlife which resulted from blockage of fish runs and impacts secondarily resulting from the loss of upper river runs;

F. The Movants and Petitioners must be full and active parties to all deliberations and discussions concerning Projects No. 588 and 2683.

Seattle Audubon Society, Friends of the Earth, Olympic Park Associates, and Sierra Club reserve the right to make such additional arguments as will best define the issues and serve the public interest.

IX

WHEREFORE, the Seattle Audubon Society, Friends of the Earth, Olympic Park Associates, and Sierra Club respectfully request that the Commission enter an order:

a) Granting the Movants and Petitioners full intervenor status in this proceeding;
b) Consolidating the separate proceedings into one proceeding;
c) Denying the applications for licensing Project No. 2683 and relicensing of Project 588 for the reasons stated above.
d) Directing that the dams be removed and the project areas be rehabilitated and returned to natural conditions.

DATED this 16th day of May, 1986.

Respectfully submitted,

Robert Y Grant

Robert Y. Grant, President
Seattle Audubon Society
619 Joshua Green Building
Seattle, WA 98101
(206) 622-6698

Dale Jones

Dale Jones
Northwest Representative
Friends of the Earth
4512 University Way N.E.
(206) 633-1661

Polly Dyer, President
Olympic Park Associates
13245--40th Ave. N.E.
Seattle, WA 98125
(206) 364-3933

Al Friedman, Chair
Cascade Chapter, Sierra Club
1516 Melrose
Seattle, WA 98122
(206) 621-1696

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

CROWN ZELLERBACH)
CORPORATION)
)
Applications for)
Major Licenses)
)

Project Nos. 588 (Glines
Canyon Dam) and 2683
(Elwha Dam)

CERTIFICATE OF SERVICE

We hereby certify that we have this day served, by depositing in the U.S mails, postage prepaid, a copy of the foregoing document on all parties of record to these proceedings in accordance with the Rules of Practice and Procedure.

Dated this 16th day of May, 1986, at Seattle, Washington.

Robert Y. Grant
President, Seattle Audubon
Society

Dale Jones
Dale Jones
Northwest Representative
Friends of the EArth

Polly Dyer
Polly Dyer
President, Olympic Park
Associates

Al Friedman
Chair, Cascade Chapter
Sierra Club

Senator WALLOP. Thank you.
Mr. Kuehne.

STATEMENT OF M.J. KUEHNE, EXECUTIVE VICE PRESIDENT, NORTHWEST INDEPENDENT FOREST MANUFACTURERS, TACOMA, WA, ON S. 2351

Mr. KUEHNE. I am M.J. Gus Kuehne, executive vice president of the Northwest Independent Forest Manufacturers. We're an association of timber companies that operate on the Olympic National Forest and other areas in primarily western Washington.

We support, with modifications, the EA that has been discussed here which is developed by the park and Forest Service. We hope that this committee will recognize that up to this point the Olympic National Park was created from the Olympic National Forest and that there have been modifications of some 850,000-plus acres that have been transferred previously from the Olympic National Forest to the Olympic National Park, including some 23 billion boardfeet of commercially valuable timber over the past 50 years.

This is the most timber that's contained in any national park in the Park System, and I would suggest to you that its commercial value probably exceeds the commercial value of all of the timber in all of the parks in the National Forest System.

I hope you recognize that when making these boundary modifications.

We recommend—I will speak regarding the Quinault area and Mr. Hurn will talk regarding the Soleduck area. Our first change from the EA is in the Prairie Creek area where we suggest less acres be transferred from the park to the forest. In this case, we suggest only 310 acres rather than 647. The additional area that is recommended in the EA is steep, thin, soils and we think will be visible from Highway 101, so in concern with the viewshed in that area and with the conditions, we see no reason to transfer that from the park to the forest.

In the Sams River area, we suggest 340 additional acres be transferred from the park to the forest to put this on hydrologic boundaries. There are some 20 million boardfeet involved in the area and also the transfer on hydrologic boundaries will put that—make additional forest lands accessible through a more reasoned transportation system which will reduce transportation costs for log hauling in currently national forest lands.

Savings to the Government through this move will be about $26 million.

In other areas, in the Finley Creek area, there we suggest 250 acres be transferred from the park to the forest. This will also put it on hydrologic boundary and add some 13 million boardfeet of timber to availability of the national forest which will return revenues of some $16 million to the Government.

We are in opposition to the Olympic Park Associates' position regarding the Sams River area where they are suggesting 40 acres be transferred from the forest to the park. The area is to be resold under the Forest Service plan to determine damages for timber defaulted in that area, and the timber's value is around $200,000, but that isn't determined until the resale occurs.

[The prepared statement of Mr. Kuehne, follows:]

HEARING ON: OLYMPIC NATIONAL FOREST AND OLYMPIC PARK BOUNDARY MODIFICATIONS
BEFORE U.S. SENATE ENERGY AND NATIONAL RESOURCES SUBCOMMITTEE ON
PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION
BY M. J. "GUS" KUEHNE, EXECUTIVE VICE PRESIDENT
NORTHWEST INDEPENDENT FOREST MANUFACTURERS
P. O. BOX 11346, TACOMA, WA 98411
June 20, 1986
308 SENATE DIRKSEN BUILDING, WASHINGTON, D.C.

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE: I am M. J. Kuehne, Executive Vice President of Northwest Independent Forest Manufacturers. NIFM is an association of 60 companies which operate approximately 70 mills primarily in Western Washington. These companies are primarily small and medium-sized, independently-owned manufacturers. They are primarily dependent upon timber from National Forest and State lands which they manufacture into lumber, plywood, veneer and shakes and shingles. We are naturally interested and concerned with actions being considered here today to modify the boundaries of the Olympic National Forest and Olympic National Park and the effect they will have on productivity of these lands for timber and recreational opportunities.

We support the purpose and objectives of the Environmental Assessment published by the Olympic National Forest and Olympic National Park dated December, 1985. We hope that this committee will keep those objectives in mind: 1) Improve land management. 2) Achieve management cost savings. 3) Solve on the ground management and/or resource problems. Identify those changes that achieve a specific goal rather than changes that do not further specific needs. 4) Protect critical resources.

We support most of the recommendations made in the Environmental Assessment with some minor modifications and have several additional boundary adjustments to recommend.

I will limit my comments to NIFM recommendations in the Quinault area. Mr. Hurn will comment on NIFM recommendations in the Soleduck area.

PRAIRIE CREEK - This proposal modifies the proposed boundary recommendations in the Environmental Assessment by moving the proposed boundary to the ridge west of Prairie Creek instead of the ridge to the East. This modification reduces the area to be transferred from the Park to the Forest recommended in the Environmental Assessment from 647 acres to 310 acres. The 310 acres to be added to the National Forest is highly productive forest lands within the watershed boundaries of Prairie Creek. It is estimated that the 310 acres to be transferred from the Park to the Forest contain approximately 19 million board feet, averaging approximately 60,000 board feet per acre.

NIFM does not recommend adding the 327 acres recommended in the environmental assessment on the deep canyon to the south. This area is characterized by very steep slopes and unstable soils. The area is also visible from Highway 101. Because of this visibility and because of the character of the land, we believe the ground is better suited to remain within the Olympic National Park.

Even though there is a decrease in the net acreage we are recommending for transfer to the Forest, there will be an opportunity to increase revenue through harvest of the timber added to the Forest by approximately $24 million. This will be accomplished without sacrificing visual or recreational values of the park.

We concur with the other two minor boundary modifications in the Environmental

Assessment east of Higley Peak which placed the Olympic Park and Forest boundaries on topographical features.

SAMS RIVER - The Sams River boundary adjustment includes a 340 acre transfer from the Park to the Forest. The area recommended includes a tributary to the Sams River. The drainage covers approximately 340 acres of timber producing land composed of hemlock and silver fir. Volume averages 60 thousand per acre totalling 20 million board feet for the drainage. The area is identified by the ridge line west of Lilly Lake and goes to the current boundary on the west. The area proposed is located on an identifiable ridge line which will eliminate current confusion regarding the boundary between the Park and Forest. This area will add additional timber to the Forest while permitting access to existing forest land, thereby allowing for completion of the transportation system on the ridge between Finley Creek in the Park and Sams River and Matheny Creek to the west. The logging savings of from $20 to $30 per thousand board feet will be realized by eliminating the need for complex and sophisticated logging systems. In addition, the additional volume to be harvested will generate approximately $26 million in revenue to the government.

FINLEY CREEK - This area is located on the north and south side of a minor drainage that flows east into Finley Creek. The area is 250 acres of timber producing land composed of hemlock and Douglas fir. The timber stand averages 40 thousand board feet per acre on the north side of the drainage and 60 thousand board feet per acre on the south side. The average for the area is 50 thousand board feet per acre with a total volume of 13 million board feet.

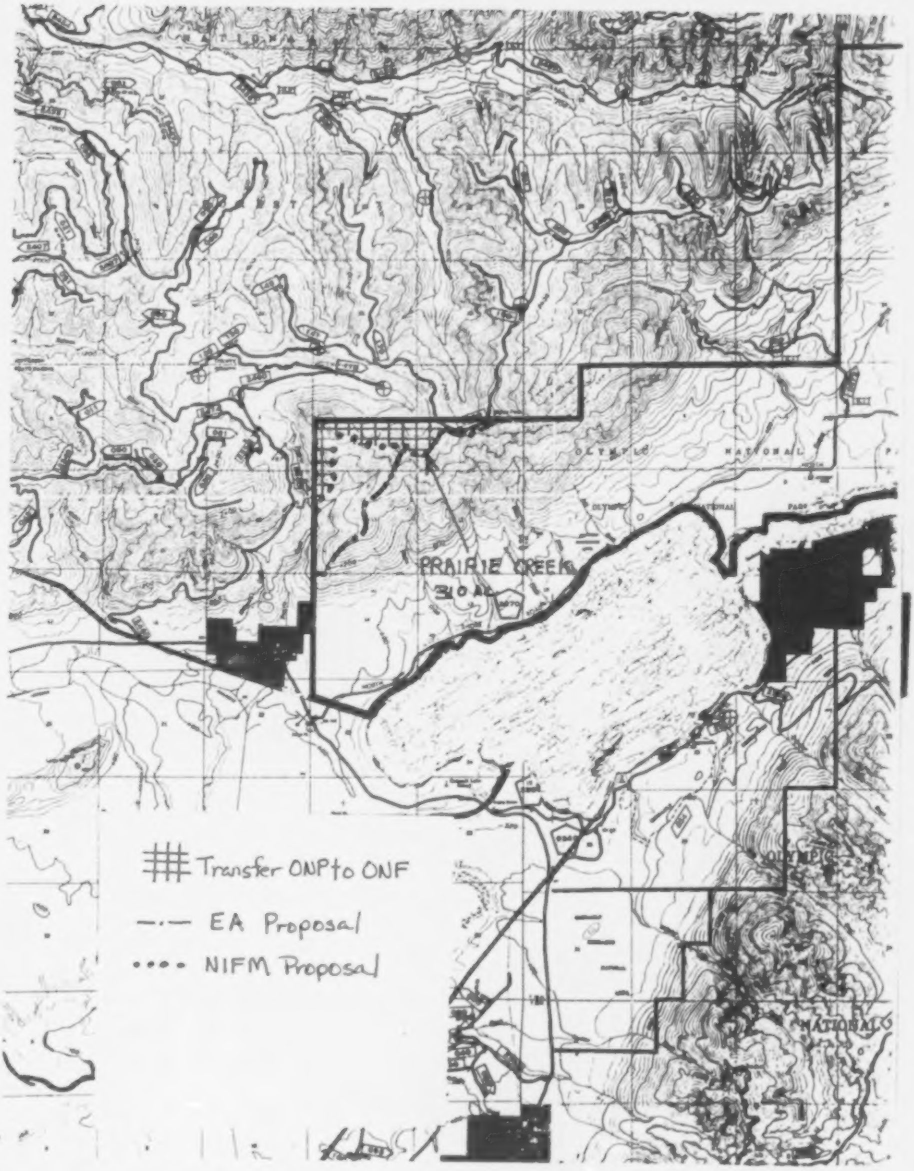
This proposal, like Sams River, allows for an identifiable boundary on topographic features which will eliminate confusion as to the exact location of the boundary. This area will also add additional timber to the Forest while permitting access to existing forest lands currently cut off by the Park boundary. Proper sale unit design can be achieved with construction of needed road system which will eliminate cable anchoring problems and allow cost efficient logging systems to be used.

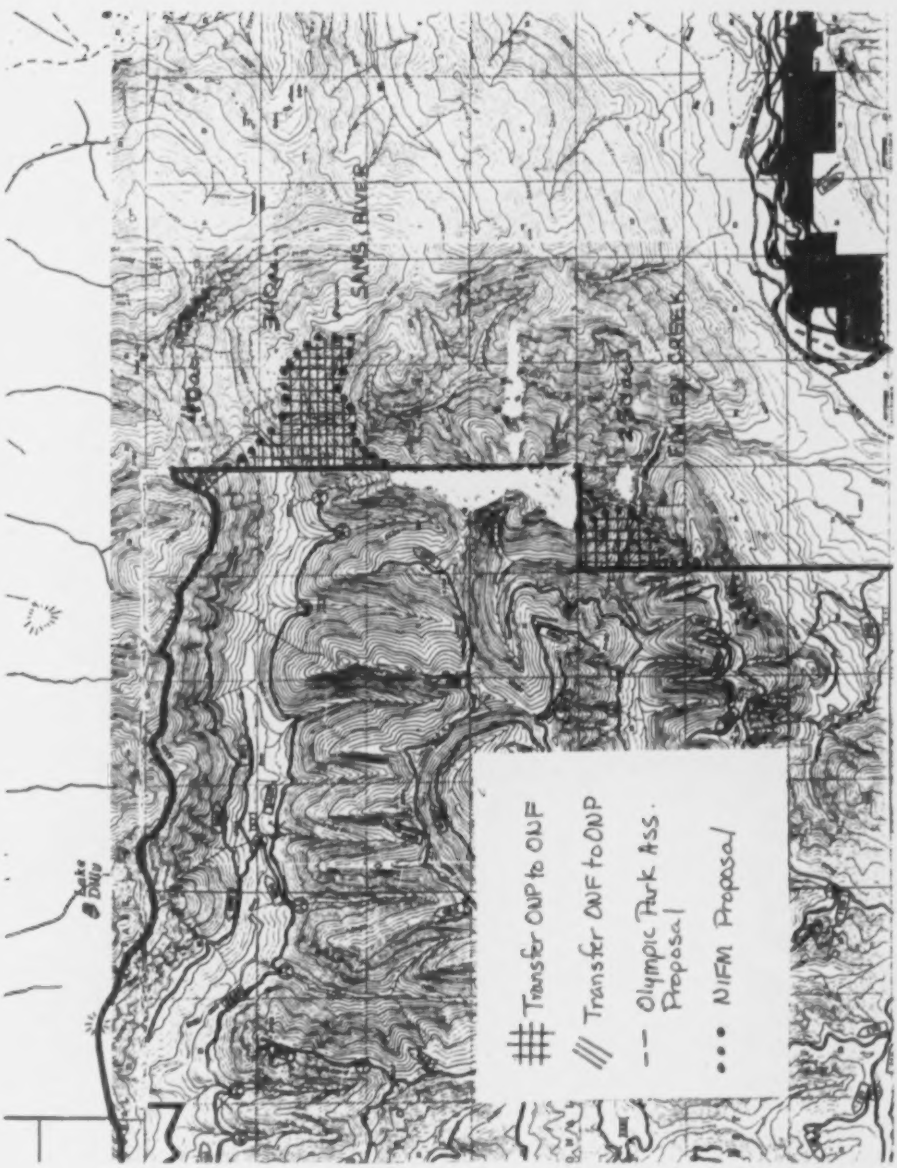
In addition to logging systems savings of $20 to $30 per thousand, the harvest will generate an estimated $1.6 million in revenue to the government.

COMMENTS ON OLYMPIC PARK ASSOCIATES PROPOSAL FOR SAMS RIVER - The area proposed includes approximately 40 acres of timber producing land that consists of silver fir and hemlock averaging 65,000 board feet per acre. The area is located immediately below Sams Ridge and across a minor drainage that flows into Sams River. The area is currently bordered on the west and east side by the Forest boundary. The area should not be included because the entire area is located in one unit of a sale currently under contract. By adding this area to the Park, you incur costly management problems including contract modification and litigation in addition to the loss of timber sale revenue of approximately $200,000.

We hope that these recommendations will be useful to you in your deliberations regarding boundary adjustments to the Olympic National Forest and Olympic National Park.

I will attempt to answer any questions you have regarding our position on this issue.


PRAIRIE CREEK
310 AC
OLYMPIC
NATIONAL
Transfer ONP to ONF
—·— EA Proposal
•••• NIFM Proposal
OLYMPIC
NATIONAL


Lake Dilly
400ac
310ac
SAMS RIVER
250ac
FINLEY CREEK
# Transfer ONP to ONF
/// Transfer ONF to ONP
-- Olympic Park Ass. Proposal
••• NIFM Proposal

Senator WALLOP. Mr. Kuehne, I appreciate it. I appreciate your understanding of those who come after you.

Mr. Hurn.

STATEMENT OF DEAN HURN, PRESIDENT, HOH RIVER TIMBER CO., BEAVER, WA, ON S. 2351

Mr. HURN. Mr. Chairman and Senators, I am Dean Hurn, president of the Hoh River Timber Co. from Beaver, WA. The forest industry on the Olympic Peninsula is by far the largest source of employment for several dozen communities located around the peninsula.

Anything that affects the management of the forest lands in the Olympic Peninsula is obviously of great concern to the forest industry and communities that are dependent upon this industry. We support the majority of the EA assessment published by the forest and the park.

But I would like to make the following comments on some of the other areas to be added or deleted.

On the Soleduck River: This is an island of land that is located between the river and the Forest Service Road No. 2918. The area covers approximately 140 acres and this is a main haul route for logs coming out of the Soleduck Valley. Each year we have to—the forest has to get a right-of-way permit from the Park Service in order to haul these logs.

On behalf of Alckee Creek, this proposal calls for transferring approximately 1,000 acres of forest land bordered on Alckee Creek to the south and the Soleduck River to the north and east, with the current forest boundaries to the west, a total of 900 acres of forest land suitable for timber production.

This timbered area consists of 45 million feet of timber, 17 million feet which is second growth and 28 million feet of old growth. The forest land base will be increased and timber harvest and administrative costs will be reduced by building a badly needed transportation system tie, accessing over 1,000 acres of forest timber currently in the forest on the southwest side of Alckee Creek.

This proposal would generate approximately $5½ million in revenue and will save about $300,000 in log haul.

We strongly oppose the Park Association proposal which calls for transferring the 1,300 acres west of Alckee Creek from the forest to the park. This area includes approximately 60 million feet of Douglas fir and hemlock, old growth timber, averaging approximately 45 feet to the acre. Three miles of Forest Service road have already been built in this area at a cost of over $1 million, and one 65-acre clearcut has already been logged with future sales being planned for the area.

This would be a loss to the Government of approximately $75 million if this was done.

On Madison Creek, we go along with the proposal to add this to the park. On Leyh Creek, all the lands located within this proposed transfer from the park to the forest is tributary to Leyh Creek. This area covers about 2,200 acres of productive timberland. The timber consists of hemlock and red cedar. It contains about 123 million feet.

There are curently no recreation uses or trails or lakes or any other things to do with recreation in this area, and this would be of benefit to the community of Ford, and to the mills on Olympic Peninsula.

I thank you for your time.

[The prepared statement of Mr. Hurn follows:]

STATEMENT OF DEAN HURN
HOH RIVER TIMBER COMPANY, BEAVER, WASHINGTON
ON THE OLYMPIC NATIONAL FOREST AND NATIONAL PARK BOUNDARY ADJUSTMENTS
BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER
AND RESOURCE CONSERVATION OF THE ENERGY AND NATURAL RESOURCES COMMITTEE

July 20, 1986
Washington, D.C.

SENATORS: I am Dean Hurn, President of Hoh River Timber Company. Hoh River Timber Company is one of the major purchasers of timber on the Olympic National Forest. I am also here today representing Northwest Independent Forest Manufacturers as chairman of the Timber Purchasers Committee of this association. NIFM represents the majority of timber purchasers on the Olympic National Forest. We are, of course, concerned about the management of forest resources on the Olympic Peninsula and specifically those of the Olympic National Forest, which serves as one of the main sources of timber supply for the Olympic Peninsula. The forest industry on the Olympic Peninsula is by far the largest source of employment for the several dozen communities located around the Peninsula. Anything that affects the management of forest lands on the Olympic Peninsula is obviously of great concern to the forest industry and communities which are dependent upon this industry.

We are also concerned about the recreational opportunities and quality of life on the Peninsula and are the year-round users of recreational opportunities provided by the Olympic National Park and the Olympic National Forest.

We support the majority of the recommendations of the Environmental Assessment published by the Olympic National Forest and Olympic National Park. I will only speak of modifications to these recommendations that will enhance the objectives of this boundary modification.

SOLEDUCK RIVER - This is an island of land located between the Soleduck River and U.S. Forest Service Road 2918. The area covers approximately 140 acres of young second-growth hemlock forest lands. The change would move the boundary to the north side of the right-of-way of Forest Road 2918. The purpose of this proposal is to eliminate the necessity for obtaining right-of-way from the Park for this major forest access road, eliminating essentially an island between the forest road system and this isolated parcel of Park land.

Transferring this land to the Forest will facilitate road maintenance allowing for a single standard to be applied in eliminating the necessity of periodic special road use permits now required by the Park, thus reducing administration costs. The area contains approximately 3½ million board feet of timber. It is anticipated the Forest will manage this parcel of land primarily for road and streamside management maintaining the environmental quality of the area.

ALCKEE CREEK - This proposal calls for transferring 1,010 acres of forest land bordered by Alckee Creek to the south and the Soleduck River to the north and east with the current forest boundary to the west. The area totals 990 acres of forest land suitable for timber production. The timbered area contains 45 million board feet of which 17 million is second-growth and 28 million old growth. The second-growth area was railroad logged in the 1930's and old railroad grades are still evident today. Transfer of this land to the Forest would meet the environmental assessment criteria for locating the boundary on topographic features which are identifiable and manageable. The forest land base will be increased and timber harvest and administrative costs will be reduced by building a badly needed transportation system tie accessing over 1,000 acres of Forest timber currently in the Forest on the southwest side of Alckee Creek. This proposal will generate approximately $5.6 million in additional revenue and a savings of $290,000 in haul and road maintenance cost.

Comments on Olympic Park Associates proposal for Alckee Creek:

Olympic Park Associates proposal calls for transferring 1,300 acres west of Alckee Creek from Forest to Park. This area includes approximately 59 million board feet of Douglas fir and hemlock timber averaging 45,000 board feet per acre. The area should not be included in the Park. Three miles of National Forest System road have already been constructed in this area and one 65 acre clearcut unit has been logged. The Forest has two future sales already layed out in the area planned for sale in fiscal year 1989 and 1991. There is no current recreational use in this area except for hunting, which is not allowed within the Park. It is estimated that this change would reduce timber harvesting revenues of over $75 million and the loss in current investments in road and planning for the area of over $1.1 million.

MADISON CREEK - This recommendation would transfer 480 acres of second-growth timber lands within the Madison Creek Drainage from Forest to the Park. Madison Creek Drainage is surrounded by a well defined ridge line that can be easily identified. The area is characterized by steep slopes and shallow soils which limit the areas suitability for timber management. Transfer of the area to the Park would place the entire Madison Creek Drainage within the Park. It is estimated there is approximately 15 million board feet of timber within the area but that this timber has a higher value for recreational use and is therefore recommended to be included within the Park.

LEYH CREEK - All of the land located within this proposed transfer from the Park to the Forest is tributary to Leyh Creek. The area is identified by a ridge line starting from the south fork of the Calawah River on the north to Kahkaw Drainage on the south. The area covers approximately 2,240 acres of productive timber land. The timber consists of hemlock, silver fir and western red cedar. It contains an estimated 123 million board feet of timber. This change will put the boundary in an identifiable location rather than the existing section line location which cuts across slopes and is extremely difficult to determine. The lands are highly suitable for timber production and have very low recreational resource value. The area currently has no trails or other recreational use. There are no lakes within the area or major recreational attractions. There are no known resource conflicts with recreational use of the Park and none of the area is tributary to the Calawah River. The addition of the 123 million board feet will generate an estimated $154 million of revenue to the Forest Service and provide employment opportunities for the community of Forks and mills on the Olympic Peninsula.

In summary, NIFM recommends four additions to the park, three of those proposed by the EA. The Storm King/Baldy, Pine Mountain and Higley Peak areas and one additional area not included in the EA, the Madison Creek area. These four areas, totalling 2,434 acres.

We recommend eight areas be transferred from the Park to the Forest. The Rugged Ridge and Canoe Creek areas as recommended in the EA and the reduced acreage in the Prairie Creek area, plus five additional areas not included in the EA. The Sams River area, Finley Creek area, Soleduck River area, Alckee Creek area and Leyh Creek area. These areas total 4,859 acres.

In addition, NIFM supports Park additions in the Lake Crescent area of 80 acres and in the Soleduck area of 220 acres.

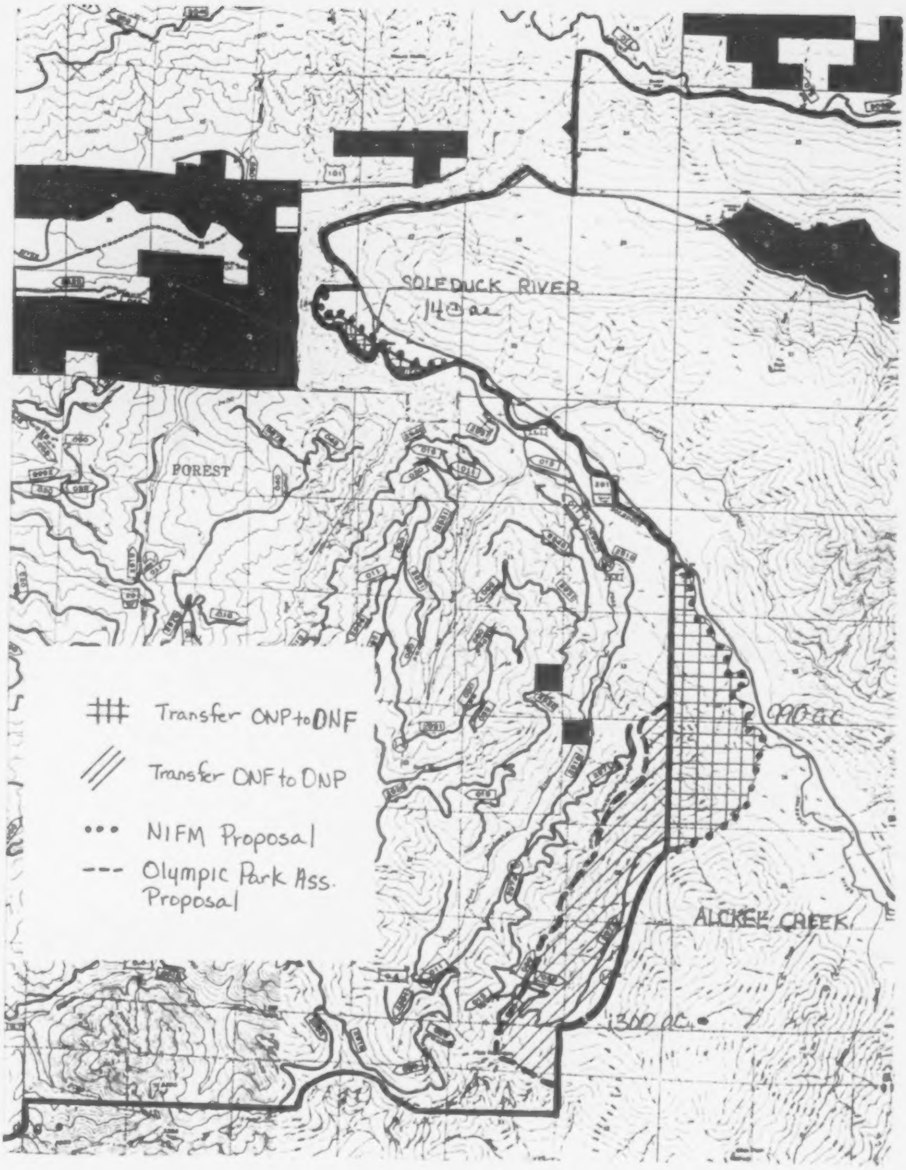
The total results of the NIFM proposal would be to increase the size of the Olympic

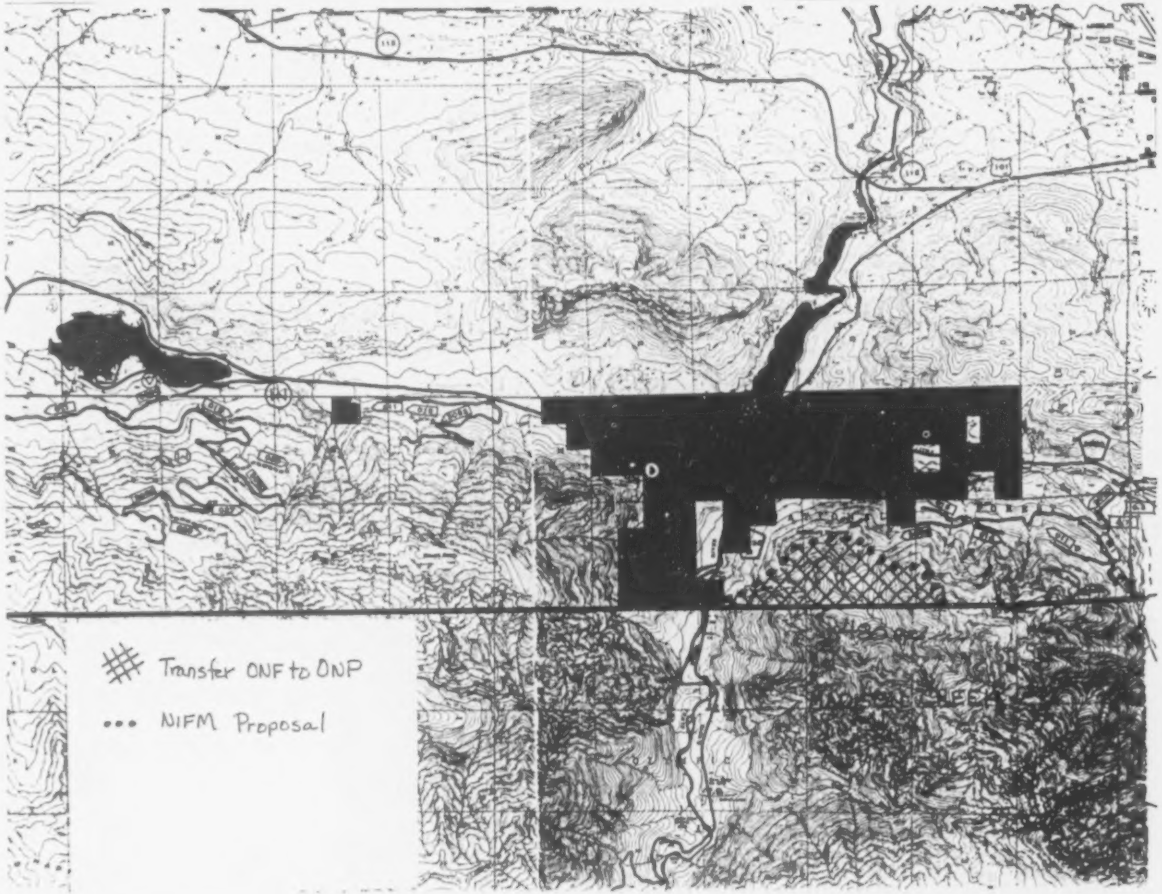
National Forest by 2,425 acres and result in a decrease in the Olympic National Park size by 2,125 acres. When final wilderness boundaries are established in the Olympic National Park, it is anticipated that boundary adjustments on the east side of the Park and Forest Boundary will be made that favor expansion of the Park, making up for this minor reduction in Park acreage as a result of modifications proposed here.

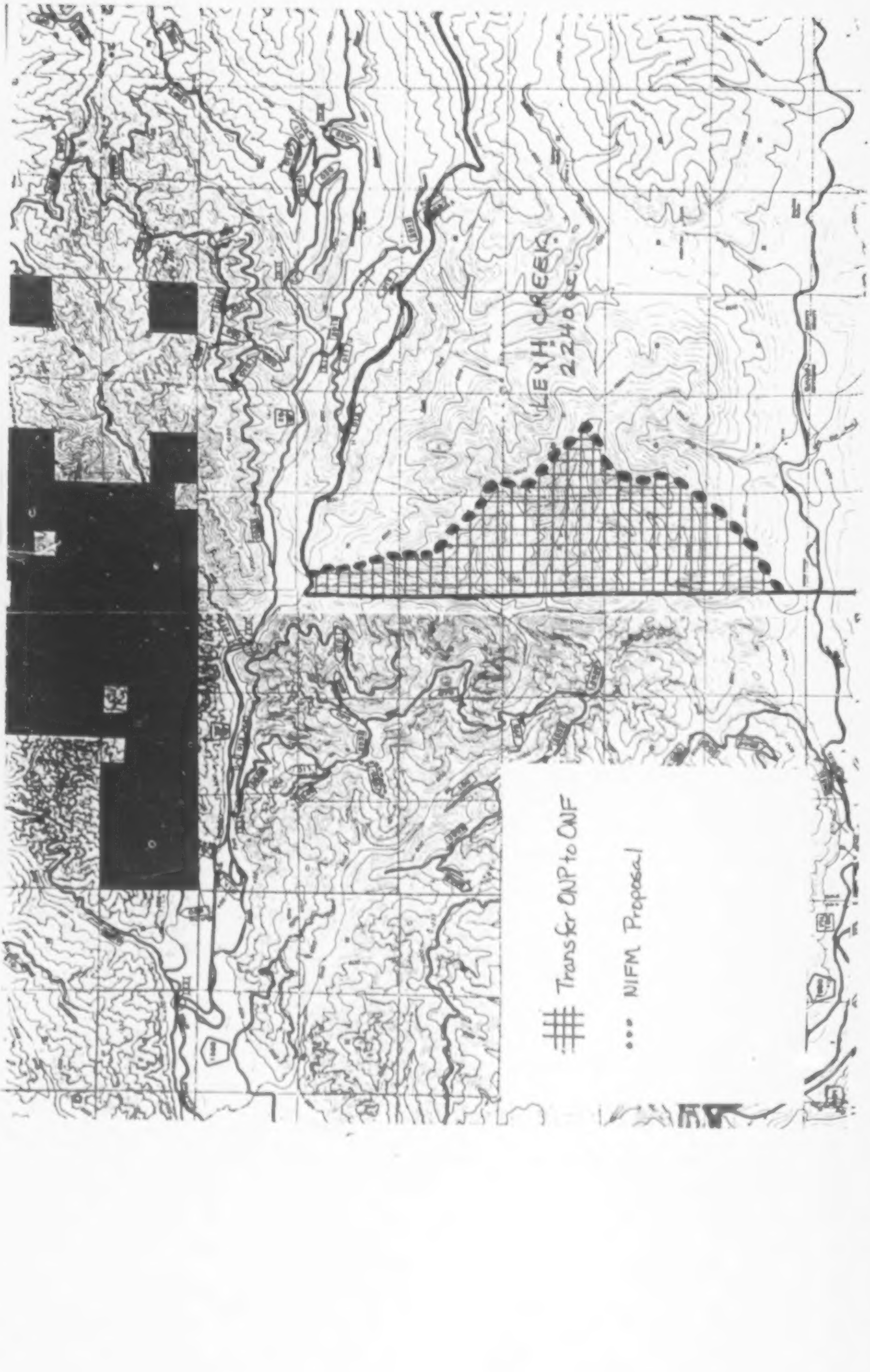
We ask that these recommendations be given strong consideration by this committee as this legislation moves forward. We sincerely believe the modifications proposed will benefit both the Olympic National Forest and Olympic National Park as well as the economy of the Olympic Peninsula, the State of Washington and the nation. I will attempt to answer any questions you have regarding our position.

SUMMARY OF AREA CHANGES

Area Name	Forest to Park Acres	Park to Forest Acres
NIFM Proposed Modifications to EA		
Prairie Creek		310
Sams River		340
Finley Creek		250
Soleduck River		140
Alckee Creek		990
Madison Creek	480	
Leyh Creek		2240
NIFM Support of EA		
Storm King/Baldy	1717	
Rugged Ridge		555
Pine Mountain	218	
Higley Peak	19	
Canoe Creek		34
Exchange totals	2434	4859
Net exchange	-2425	+2425
NIFM Support of Park Additions		
Lake Crescent	80	
Soleduck	220	
Total additions	300	
NET TOTAL	-2125	+2425


SOLEDUCK RIVER
140 ac
FOREST
990 ac
ALCKEE CREEK
300 ac
### Transfer ONP to ONF
/// Transfer ONF to ONP
••• NIFM Proposal
--- Olympic Park Ass. Proposal


▦ Transfer ONF to ONP
••• NIFM Proposal


LEYH CREEK
2240 ac.
▦ Transfer ONP to ONF
••• NIFM Proposal

Senator WALLOP. Thank you, Mr. Hurn. I appreciate it.
Mr. Raines.

STATEMENT OF CHARLES RAINES, CHAIRMAN, NATIONAL PARK COMMITTEE OF THE CASCADE CHAPTER, SIERRA CLUB, SEATTLE, WA, ON S. 2351

Mr. RAINES. Thank you, Mr. Chairman.

I am Charles Raines from Seattle, WA, and I am representing the Sierra Club. I want to thank you for this opportunity to address the committee.

Olympic National Park is internationally recognized for its tremendous natural values. It is both a biosphere reserve and a world heritage site, and among its magnificent natural wonders are the rain forests, elk, rivers, wild salmon, and coastal beaches. I visit it often and it is truly a wonderful place.

Generally, the Sierra Club is supportive of the concept of national park boundaries located on ridge lines, but only where it will be of benefit to the park. We are generally opposed to deletions from established parks. However; we will consider such minor adjustments to boundaries if there is an overall benefit to the park.

The Forest Service/Park Service proposal embodied in S. 2351, in that proposal we support the additions, but we do not feel there are sufficient benefits to the park to warrant the proposed deletions, especially Rugged Ridge and Prairie Creek. We are particularly concerned about the low elevation old growth forest which is scarce and rapidly dwindling, and while the Park Service proposal will increase the park by approximately 700 acres, there will actually be a decrease of over 400 acres of low elevation forest.

After careful study we have identified further boundary adjustments and these will have significant wildlife, recreation and scenic values as well as improving management. Among them are Madison Creek, Alckee Creek, tributary of the Soleduck, which has a significant fish run, and Finley Creek which is in the viewshed and the watershed of the Quinault River.

Incidentally, last week when I was up there looking at the area, I noticed a large slide blocking one of the roads. I subsequently learned that it was indeed large. It buried a huge dump truck and this clearly demonstrates the difficulty, expense and environmental damage that often accompanies road construction in this area.

We feel that our package which is included on the map at the end of our testimony would produce a modest net addition to the park, but would not affect signficantly commercial forest land due to the amount of nonforested lands in the area and those that will be already reserved for wildlife purposes.

We support the original Park Service proposal to add lands at Lake Crescent and along the Soleduck and we are deeply concerned about reestablishing the once great runs of salmon on the Elwha River. We feel that Glines Canyon Dam inside the park should be removed and that fish passage facilities be constructed on the lower dam in order to allow the great salmon runs to return to the Elwha.

We urge you to amend the bill and pass S. 2351. With those additions I think it will be a great asset to the park and to the people of America.

Thank you.

[The prepared statement of Mr. Raines follows:]

TESTIMONY OF CHARLES RAINES

SIERRA CLUB

ON

S. 2351

BEFORE

SENATE PUBLIC LANDS SUBCOMMITTEE

JUNE 20, 1986

Mr. Chairman, I am Charles Raines, from Seattle, Washington, representing the Sierra Club.

The Olympic National Park is internationally recognized for its tremendous natural resources. It is both a Biosphere Reserve and a World Heritage Site. Among its magnificent natural wonders are the rain forests, elk, rivers with wild salmon and the coastal beaches.

Generally, the Sierra Club is supportive of the concept of National Park boundaries located on ridgelines, but only where it will be of benefit to the Park. We are generally opposed to deletions from established parks. However, we do consider minor adjustments to boundaries if there is an overall benefit to the park.

The Forest Service and National Park Service have proposed a package of boundary adjustments for Olympic National Park and Olympic National Forest. This proposal is embodied in S.2351.

While we support the proposed additions to the Park we feel that there are not sufficient benefits to the Park to warrant the proposed deletions, especially Rugged Ridge and Prairie Creek. We are particulary concerned about the low elevation old-growth forests, which are so scarce, and rapidly dwindling in our state. While the FS/NPS proposal would have a net increase of 700 acres to the Park it would have a loss from the Park of over 400 acres of forest below 2500'. As one of the most important features of this Park, such a deletion is unacceptable.

After careful study we have identified further boundary adjustments that would benefit the Park. These are noted below, and shown on the attached map.

1. Madison Creek- addition of virgin forest in a creek drainage that flows from the Park through the Forest and back into the Park. It is within an area to be reserved for old growth dependent species as a "minimum management requirement" in the forthcoming Forest Plan.

2. Storm King-Mt. Baldy- This dramatic rocky ridgeline encompasses

Barnes Creek and Freeman Creeks which flow into the Park. Forest Service documents designate most of it as "Non-Commercial Rocky" with a small amount in the "Marginal- no timber harvest" category. We support the proposal in the bill with the boundary extended est along the ridgeline north of Freeman Creek.

3. Pine Mtn.- We support the proposal in the bill of this forested area which drains into the Bogachiel River, and is within a Spotted Owl Habitat Area (S.O.H.A.).

4. Alckee Creek- This area adjacent to Pine Mtn is the north slope of the Alckee Creek Valley. The creek originates in the Park, flows north to form the boundary of the Park/Forest and then flows back into the Park. There it joins the Soleduck River, which has a significant anadramous fish resource. Again, part of the area is within the most recent S.O.H.A. designations that are to be the minimum wildlife reserves in the upcoming Forest Plans. The upper slopes are steep. A flatter bench adjacent to the creek, is where the largest of the old growth trees are found. The northeastern slopes of the ridge proposed for addition are visible from the popular Soleduck Hot Springs Road.

5. Queets- This boundary adjustment would continue the ridgeline boundary that was adopted for the Kloochman Rock vicinity and insure that the entire slope that surrounds the Queets Campground and trailhead are protected within the Park.

6. Sam's River- These adjustments would eliminate another situation where the upper part of a creek valley is being proposed for logging while the lower slopes are within the park.

7. Finley Creek- This modest addition would bring the drainage of the main stem of Finley creek entirely within the Park. The large west fork dranage, which has considerable road and logging activity would not be affected. The ridgeline here is sharp, reflecting the steep and highly erosive slopes. Nearby, a slide that to this day entombs a dumptruck, bears silent testimony to the difficulty, expense and environmental damage that often comes with this type of development in this region. The area also is within a new S.O.H.A. and is in the viewshed and watershed of the Quinault River.

8. Higley Peak- We support the minor adjustments along the Canoe Creek divide.

This package would produce a modest net addition the the park. However, available commercial forest land involved would be limited, due to large amounts of non-forested lands and areas reserved for wildlife purposes. Much of the remainder is found on steep slopes with low value timber. We would note, that there are no timber sales under contract in any of these area, though one sale defaulted in Alckee Creek.

We support the Park Service proposal to acquire lands along the Soleduck Road and on the east shore of Lake Crescent. The owners are willing to sell and the time is ripe.

We urge you to ammend S. 2351 to include these further boundary modifications.

ELWHA DAMS
We strongly favor the re-establishment of the once great runs of salmon up the Elwha River. Access to thier spawning grounds were blocked by the construction of two dams, and this situation must be rectified. The only effective method to accomplish this is to remove the dam at Glines Canyon within Olympic National Park, and to remove the lower Elwha dam or construct fish passage facilities. It appears to be entirely feasible to accomplish this,and remove this massive impact on the Park.

We urge you to ammend S.2351 to remove the Glines Canyon Dam, insist on fish passage facilities at the lower dam and the re-establish the salmon runs in the Park.

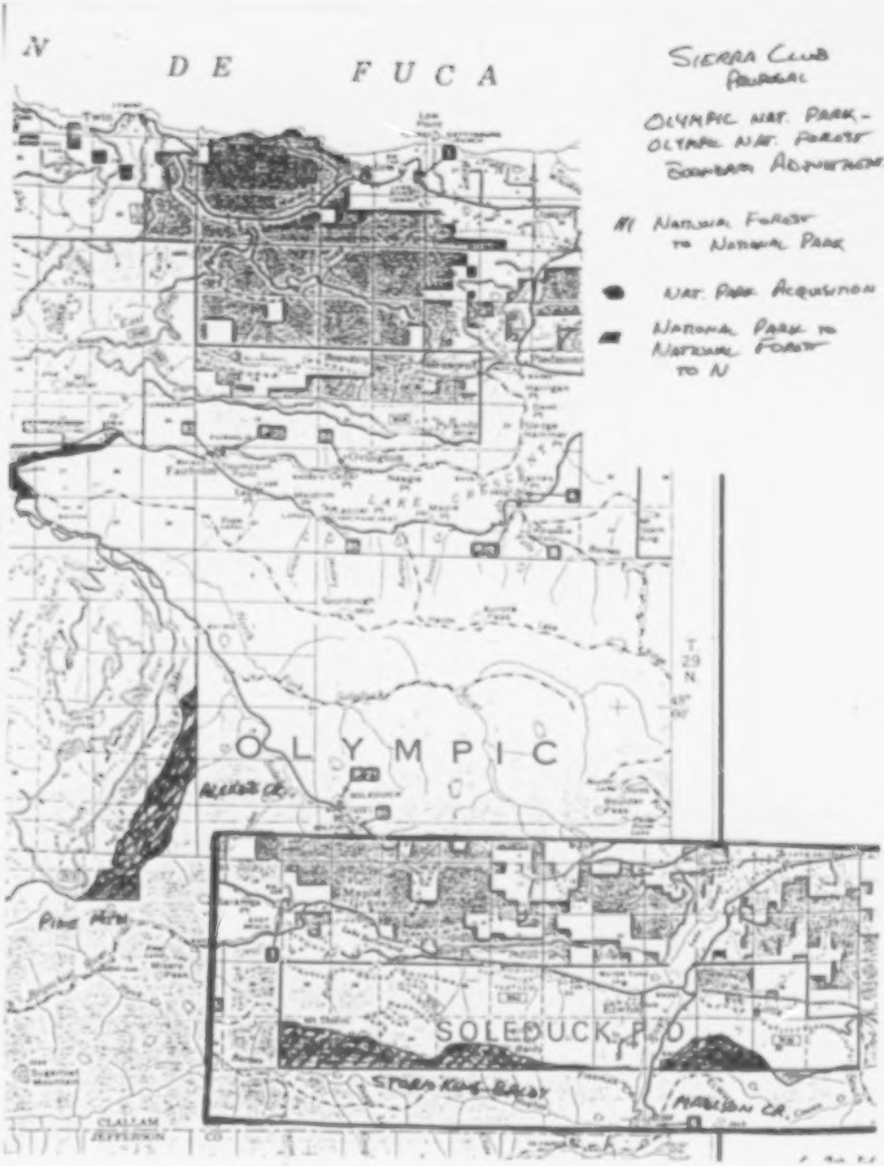
COASTAL STRIP
We feel that Lake Ozette, which is not technically in the Park should be added to it for consistent managment and preservation. This marvelous scenic and recreational resource should be a part of the Park that surrounds it.

Similarly, the intertidal area should also be included in the Park and the land acquired. These lands shich include some of the striking rock formations are truly of National Park quaility and are assumed to be in the Park by most visitors. However, the past and present threats are real,including recent severe harvesting of intertidal marine life. The state has made little or no effort to properly protect this nationally significant area. From a management, preservation or enforcement standpoint adding this to the Park makes sense.

Again, we urge you to ammend S. 2351 to add these areas to the Park and acquire the lands.

These changes, noted above, will be a great benefit to Olympic National Park

Thank you.


N DE FUCA
LAKE CRESCENT
T. 29 N
OLYMPIC
Alckee Cr.
Pine Mtn.
SOLEDUCK R. D
Storm King-Baldy
Madison Cr.
CLALLAM
JEFFERSON
CO

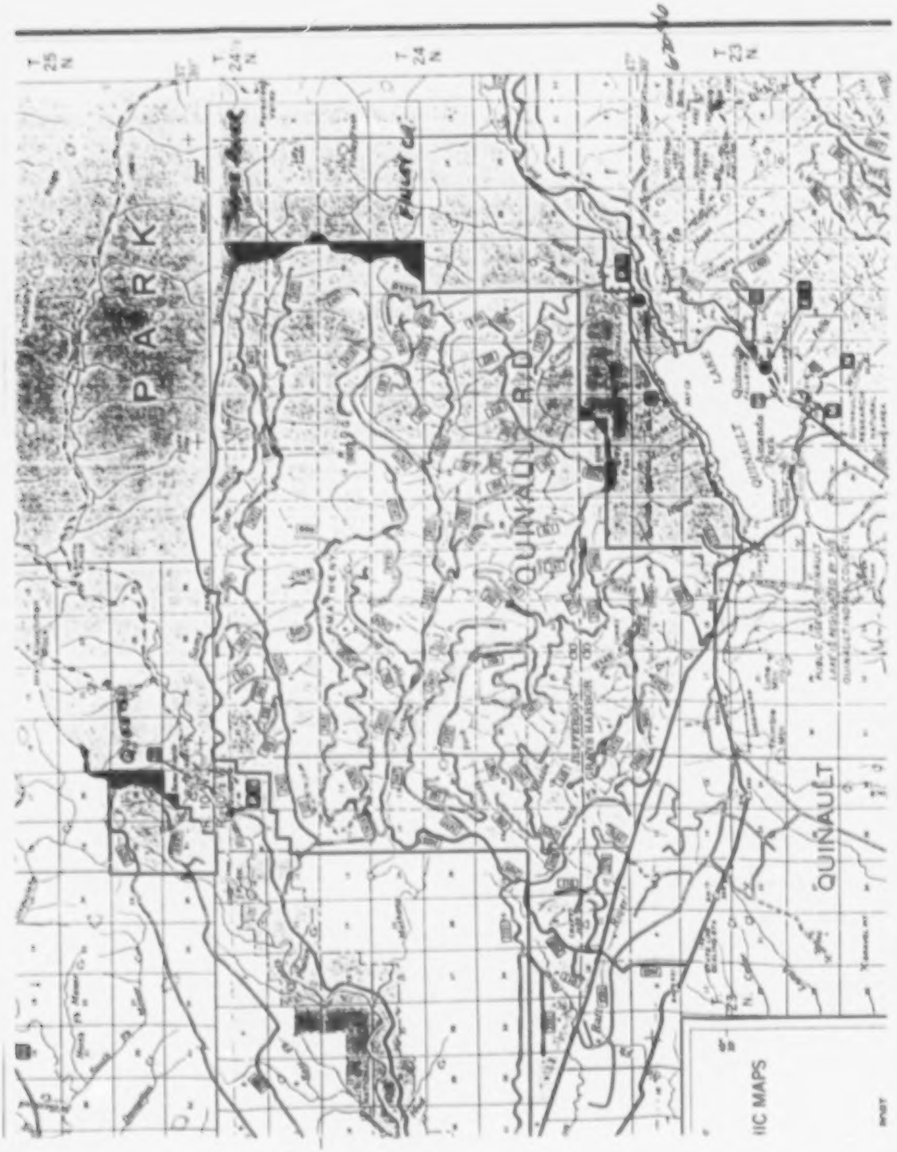
Sierra Club
Proposal

Olympic Nat. Park -
Olympic Nat. Forest
Boundary Adjustment:

▨ National Forest
to National Park

● Nat. Park Acquisition

▬ National Park to
National Forest
to N


T 25 N
T 24 N
T 24 N
T 23 N
PARK
QUINAULT R/D
LAKE QUINAULT
QUINAULT
IIC MAPS

Senater **Wallop**. Thank you. Mr. Raines.
Ms. Dyer.

STATEMENT OF POLLY DYER, PRESIDENT, OLYMPIC PARK ASSOCIATES, SEATTLE, WA, ON S. 2351

Ms. **Dyer**. I am Polly Dyer, Olympic Park Associates, and I want to first thank you for the hearing being held today. I also want to submit for the record, as if read, a statement from the Mountaineers, the third largest conservation outdoor club in the United States. I have sent copies in. I am also authorized to say that the Washington Environmental Council, a statewide organization, is in support of these remarks.

I will not further discuss the boundary additions that we would like to see made to Alckee Creek, et cetera. I think Mr. Raines has explained it quite well. I will spend my time, if I may, on—first, I do, however, want to say that we are in support of the National Park Service's interest in acquiring the Fisher property, the east inlet Crescent, and the lands along the first several miles of Soleduck Road.

I particularly want to bring to your attention the dam that exists in Olympic National Park, that it's license has expired 10 years ago. The dam not only stopped fish from going upstream. I think it's something like 200 square miles of watershed and spawning grounds were affected in Olympic National Park. The dam went in prior to the park being established. And this also affects other forms of wildlife that depended on that.

So we have submitted, and I was going to submit for the record what Mr. Brock Evans has already done, a copy of the intervention to FERC. We are a party to that. We do recommend that that eventually be removed from the park. We think it's essential. I had hoped to have pictures for you of that dam today, but they had not arrived in the mail before I left.

With respect to the potential electrical energy use, which the dams are owned by Crown Zellerbach Timber Co. in Port Angeles, there are other sources of energy we think would be very appropriate in that these structures don't belong in parks

The second thing I would like to address briefly is that we would like to have the waters of Lake Ozette added to Olympic National Park. In the 1976 legislation that added some fringe boundaries around Lake Ozette, the lake itself was not included. I can submit this picture for the record.

The final item I would like to address is the tidelands contiguous to Olympic National Park. When the park was established or when the area was acquired, only the uplands were acquired, and the park only goes down to mean height tide. There are some problems over years with those inter-tidelands. Back in 1942, there was a formal agreement between the State of Washington signed by then-Governor Langley and the Federal Government that the Federal Government would not acquire those tidelands if the State would administer them as if they were to be in a national park.

Well, that institutional memory has been lost. They have not been done over a set time, with no fault or no reflection on the current administration of the State parks, which has jurisdiction right now, but there have been problems over the years, whether it is mining or landing or airplanes, and a number of other problems, some of which I have mentioned in my statement. I won't get into those.

Now, in 1907 President Theodore Roosevelt, executive order, declared that those would be specific wildlife breeding grounds for birds, et cetera, Cape Flattery, and then south of Olympic National Park's boundaries as it is, Copalis Rocks.

We would like to see that added, and we can furnish for the record—I don't have a full statement today—the agreement reached between the State of Washington and the Federal Government in 1942 that they would so manage that.

I think that that basically covers the main points I wish to make. And thank you.

Oh, I do have for the record, if you would like to have that, some pictures that happen to be the Point of the Arches which was the north part—some of this is Indian reservation, but this part is in the park. We're not sure about these offshore rocks, so I will submit these so at least you have an indication of something of what we are talking about.

We also would like to submit—I know my time is over—a couple of articles that were just popular type articles in our publication "Voice of the Wild Olympics 'that speak to the tide pools.

Senator WALLOP: We will have those for the committee files. They are difficult for us to print.

Ms. DYER. All right. Yes.

[The prepared statement of Ms. Dyer follows, additional materials have been retained in subcommittee files:]

Olympic Park Associates

13245 - 40th Ave., N.E., Seattle, Washington 98125

STATEMENT RE: S.2351
TO
SUBCOMMITTEE ON PUBLIC LANDS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

June 20, 1986

Senator Wallop and Committee Members, I am Polly Dyer, President of Olympic Park Associates, a citizen organization incorporated in the State of Washington in 1948, to insure that the integrity and wilderness of Olympic National Park is preserved, and to address conservation concerns and seek protection where required on the Olympic Peninsula of the State of Washington, including proper management of the Olympic National Forest.

Prior to release of the Environmental Assessment of December 1985 for "Proposed Minor Boundary Modifications and Land Exchange for Olympic National Forest / Olympic National Park, State of Washington," Olympic Park Associates had indicated its concurrence in making some boundary "adjustments" along some hydrographic divides between Olympic National Park and Olympic National Forest. (We had supported a similar "exchange" in 1976, as subsequently enacted by Congress, between the Washington State Department of Natural Resources land adjacent to the west boundaries of Olympic National Park, to follow ridgetops rather than section lines, and to also follow the Sams Ridge as a boundary between Olympic National Park and Olympic National Forest.)

Ordinarily, Olympic Park Associates is most reluctant to see primeval forests removed from Olympic National Park, especially those along Rugged Ridge and in the Prairie Creek area below the westerly extension of Higley Peak above Lake Quinault. We concurred in the Environmental Assessment recommendation in the interests of a potentially better identified boundary and better long range protection of the areas remaining within Olympic National Park in these vicinities. In both areas we note that spotted owl studies have not been completed by the National Park Service. Should these areas be transferred to Olympic National Forest, spotted owl research would be essential prior to final determination of subsequent management by the U. S. Forest Service. In the Lake Quinault area, a 1975 study determined that a resident herd elk (one that did not migrate) occurred in the Prairie Creek area; therefore, it will be necessary to determine the needs of this elk herd for cover in the old growth forest on the northwest side of Higley Peak if it is transferred to Olympic National Forest.

We had concurred in the addition of Pine Mountain to Olympic National Park. However, it is also essential to include in Olympic National Park the half of the Alckee Creek valley not in Olympic National Park. The boundary follows Alckee Creek, a most undesirable boundary. Olympic Park Associates strongly recommends that the Alckee Creek drainage now in Olympic National Forest be included in Olympic National Park, to extend along the ridgetop northeasterly from Pine Mountain. Although a logging road has been built into this area and one logging sale has been executed on the upper slopes, the road can be removed or scarified and planted to its original forest mix and the one clearcut area can be regenerated. Several additional sales are under consideration by the U. S. Forest Service: some are "default" sales, so that the USFS can determine the difference between today's prices and the defaulted price, thus enabling it to bill the defaulter for the difference. It is not necessary to sell and cut these areas merely to determine the difference between the current market and earlier higher market at which these blocks were first sold. The other "routine" proposed sales have not, to our knowledge, been advertised and, therefore, no private parties would be affected. We think this is a most appropriate time to include the entire Alckee Creek watershed within Olympic National Park. It is a logical extension from Pine Mountain and would assure the future integrity of Olympic National Park.

Mt. Baldy and Storm King are logical hydrographic boundaries between Olympic National Park. It is noted that the boundary included in the map of the Environmental Assessment, apparently inadvertently, did not continue to the eastward. Also a logical boundary along a hydrographic divide was not made east of the Elwha River in the Madison Creek watershed, following the McDonald Mountain ridge extensions, part in Olympic National Forest and part in Olympic National Park. This is a logical boundary modification in congruence with that of Mt. Baldy and Storm King.

Boundary modifications are needed in the vicinity of Sams Ridge and Sams River. A small segment of the Sams Ridge hydrographic boundary modification of 1976 apparently omitted a segment along the ridge top; this should be added to Olympic National Park, continuing along the easterly extension of the ridge. South of Sams River and near Finley Creek we recommend the boundary follow the ridge to the west of Finley Creek, thus including all of this valley in Olympic National Park, transferring that in the Olympic National Forest to Olympic National Park and that in the Park to the Forest.

Summary of proposed boundary modifications between Olympic National Park and Olympic National Forest: Olympic Park Associates will fully support the adjustments as proposed in S. 2351 IF the further modest boundary adjustments recommended in this statement are also made. In our initial support for the Environmental Assessment's recommendations, we recommended the addition of the "missing half" of the Alckee Creek watershed to Olympic National Park; this and the eastern ridgetop boundary proposal in the Madison Creek area, and the modest adjustments proposed along Sams Ridge and the Finley Creek area will serve the public interest for the years to come. We can only support S.2351 if these additons are included as amendments.

LAKE CRESCENT and SOLEDUCK ROAD EDGE ACQUISITIONS:
Olympic Park Associates is delighted to understand that the private owners of the eastern slopes above Lake Crescent and the second-growth forest paralleling the boundary of Olympic National Park at the pavement's edge are willing to sell these parcels to Olympic National Park and that the Washington Department of Natural Resources is willing to have its piece in the Soleduck area acquired. We are in full suport of these acquisitions.

ADDITIONAL AMENDMENTS PROPOSED TO S. 2351:

I. GLINES CANYON DAM, ELWHA RIVER WITHIN OLYMPIC NATIONAL PARK:
This dam was built prior to the establishment of Olympic National Park. Its fifty-year license expired circa 1976, the project first being initiated in 1926 and completed in 1927. Attached is a copy* of a Motion to Intervene before the Federal Energy Regulatory Commission to deny the License (re-license) for the Glines Canyon Dam on the Elwha River within Olympic National Park and to petition for the dam's removal. Arguments in support of this step are included

(* one copy for Committee files)

therein. Olympic National Park is a World Heritage Park and a Biosphere Reserve, both categories would be enhanced by returning the Elwha River and the impounded areas under Lake Mills gradually to a restored natural state.

Currently, Olympic National Park and fishery agencies have begun the restoration of the various species of salmon and steelhead in the Elwha by trucking native genetic stocks for "planting" above the Glines Canyon Dam. This is a laudable effort we fully support; however, Olympic Park Associates does not think licensing the dam will enhance the recovery of these wild fish. In addition to the re-establishment of the fish runs into the miles of spawning streams which have been blocked by both the Glines Canyon Dam and the 1909 Elwha Dam on the river outside of Olympic National Park, the gradual restoration of the natural canyons, riparian zones, and forest will also permit the other wildlife species to regain both lost habitat and the food supplies the fish originally provided. Please review the attached petition for further discussion.

OLYMPIC NATIONAL PARK COASTAL AREA - CONTIGUOUS TIDELANDS:

Since its inception in 1948, one of the goals of Olympic Park Associates has been to have the area below the Olympic National Park boundary ocean strip at mean high tide extended at least to encompass all of the adjoining tidelands to extreme low tide.

It had been the original intention of the United States to include the tidelands in the area of uplands being acquired for subsequent inclusion in Olympic National Park. The uplands were added by President Truman's Proclamation in January 1953, and those north of the Ozette River to the southern boundary of the Makah Indian Reservation were added by Congress in 1976.

From the very first moment that land acquisition began for Olympic National Park's Ocean Strip, everyone had understood that the tidelands would be acquired and be an essential part of Olympic National Park. When Washington State's Department of Public Lands learned that funds for acquisition were running low, it offered to the U. S. Department of Interior acquisition team a declaration to manage the tidelands consistent with the National Park then being created.

That Declaration of Policy, signed September 16th, 1942 by Washington State Land Commissioner Jack Taylor and Governor Arthur B. Langlie concludes with the following statement:

> NOW, THEREFORE, IT IS HEREBY DECLARED to be the policy of the State of Washington that no part of the tidelands along the shore of the Pacific Ocean from the northerly boundary of the Quinault Indian Reservation to the southerly boundary of the Ozette Indian Reservation shall ever be sold or otherwise disposed of, and the State shall not use or allow any part of said tidelands to be used for any purpose detrimental to the public parkway and recreational area now being established by the United States of America; and
>
> IT IS FURTHER DECLARED that nothing herein contained shall be construed to define, limit, waive or in any wise affect any interest which the United States of America may have in said tidelands.

On September 24, 1942, an order was entered into the records of the Washington State Department of Lands embodying this policy, and the U. S. Department of Interior dropped the tidelands from the Declaration of Taking, when the State of Washington was legally bound by the agreement.

Although legally bound by this Declaration of Policy to administer the tidelands as if they were a national park, the State actually began in 1959 to let mineral exploration leases on the very beach that was supposed to protected as a national park. It was reported that the so-called black sand on the beach had been found to contain zircon, ilmenite and magnetite. No notification was ever given to the National Park Service that such a momentous action was even being contemplated.

It has been said that because the tidelands are now under the jurisdiction of the Washington State Parks and Recreation Commission that there is no longer a problem. The fact that logging occurs in Washington State Parks and the Park Commission recently gave permission to an entrepreneur to construct a hydroelectric installation in a State Park speaks for itself. The Washington State Department of Fisheries has the power to determine that the very displays of shellfish the park serves to protect are available for harvest, without the participation of the National Park Service in the decisions.

I should note that a Memorandum of Understanding currently exists between Washington State Parks and Olympic National Park, allowing the National Park Service to administer the tidelands within the state's jurisdiction that are adjacent to Olympic National Park. In our opinion, this is an inadequate arrangement; we do not find that the National Park Service is able to fully protect the tidelands without having greater authority to do so. Olympic Park Associates does not fault the current administration of the Washington State Parks for the recent problems with the extensive scraping of all forms of shellfish and other marine life from the tidepools; we appreciate its intent to try to remedy this recent problem by posting signs in languages other than English for the people thought to be impacting the tidepools so substantially.

However, as outlined above, the institutional memory of earlier commitments by the State of Washington with the United States Government has failed. The only real remedy is inclusion of all of the contiguous tidelands below mean high tide or ordinary high water within the exterior boundaries of Olympic National Park.

None of these tidelands can be reached without passing through the park and are, in fact, an integral part of Olympic National Park (although not in name) and believed by most visitors to be within Olympic National Park's coastal strip. However, the National Park Service has no legal authority to stop the general destruction that is now underway, nor can it legally prevent the shooting of marine mammals and birds that regularly occurs as the use of the beach continues to explode. Although we understand that the Washington State Parks has given permission to the National Park Service to deputize its rangers, this has not been a satisfactory solution; NPS finds it is unable to deputize the appropriate ranger classification to protect the impacted natural resources found in the tidal areas under state jurisdiction.

We propose a simple redress to provide the public with the administrative authority not now provided by the State of Washington within the tidelands contiguous to Olympic National Park and which is absolutely essential to maintain the tidelands for future generations, as the creation of the Ocean Strip section was intended to do.

Adding to Olympic National Park the tidelands and the offshore rocks the latter now protected in Executive Orders 703, 704, and 705 (dated October 23, 1907) as Wildlife reservations, will remedy the lack of protection for this delicately balanced resource. Such a measure would retain State ownership, but it would provide for concurrent jurisdiction with the National Park Service of the tidelands.

Although the offshore rocks are included in the Flattery Rocks National Wildlife Refuge and the Quillayute Needles National Wildlife Refuge, we haven't completely ascertained what and if there is Congressional protection for the "breeding ground for native birds and animals" as was provided in the above Executive Orders. It is possible that encompassing these as a part of the Washington Islands Wilderness achieved this stronger protection. Nevertheless, Olympic Park Associates considers the submerged tidelands and offshore rocks and reefs as a natural part of the coastal region of Olympic National Park and of great importance to the preservation of the habitat in the littoral area.

Congressional protection for the breeding grounds of the hundreds of species of marine birds and mammals that depend on the rocks and tidal areas for survival will provide a level of protection now largely absent.

Olympic Park Associates urges you to take this simple action for the future generations who will be served by the presence of a wilderness coast and tidelands in the midst of an ever urbanizing society. And, again, as mentioned earlier, the institutional memory of earlier (1942) agreements for complete protection of the tidelands contiguous to Olympic National Park has failed, and will fail again, unless Congress acts to provide the protection the tidelands need.

LAKE OZETTE:

By Act of Congress in 1976, a fringe of shore around Lake Ozette was included within Olympic National Park, at the same time the northern seven miles of roadless coast (known as Point of Arches and Shi Shi Beach) were added to Olympic National Park. At that time Lake Ozette itself was not included in Olympic National Park. We recommend that it become a part of the National Park System by an amendment to the legislation being considered today. Since 1976, the private owners of the islands in the lake have been willing sellers and these are now part of Olympic National Park. It is only fitting and logical that Lake Ozette, the third largest in the State of Washington, be an integral part of Olympic National Park. Lake Ozette is under the jurisdiction of the Washington State Dept. of Natural Resources.

Thank you for this opportunity to testify. I have some photographs with me of Lake Ozette, some of the offshore rocks and beach, and of the dammed Lake Mills on the Elwha River within Olympic National Park for your review. (Some can be left for the Committee files; others are on loan and I'll need to return them.)

Also, at the time Olympic National Park was designated a World Heritage Park by the United Nations, that body recommended that the tidal areas be submitted to it for future designation as a part of the Olympic National Park World Heritage Park status.

Senator WALLOP. Thank you very much, Ms. Dyer.
Mr. Tam.

STATEMENT OF WILLIAM M. TAM, DEPUTY ATTORNEY GENERAL, STATE OF HAWAII, LAND AND TRANSPORTATION DIVISION, HONOLULU, HI, ON S. 2320

Mr. TAM. Senator Wallop, Senator Evans, the State of Hawaii strongly supports and urges the adoption of S. 2320. I direct your attention to the maps at the end of our testimony. This bill will help to facilitate and finally consummate a unique reconciliation of a 4-year administrative hearing process to develop alternative geothermal energy on the big island of Hawaii, while protecting 5,650 acres of pristine wilderness and environmentally sensitive land identified as tract 22 adjacent to the Hawaii Volcano National Park.

This land exchange proposal which originated with the local Volcano Community Association as part of a larger land exchange between the State and Campbell Estate, was recommended by the State's Board of Land and Natural Resources as part of a solution to the conflict that arose in developing geothermal energy in the Puna district on the island of Hawaii.

Beginning in 1982, the State Land Board conducted five contested case hearings over 4 years that have required more than 31 days and nights of hearings and spawned nine separate lawsuits.

Originally, the developer and landowner, Campbell Estate, sought to explore, develop and produce 250 megawatts of electric energy from five geothermal powerplants and more than 90 wells on 21,000 acres of land. The board had to balance the need to develop alternative renewable alternative energy resources in Hawaii, since Hawaii is 90 percent dependent upon imported fossil fuels, while protecting fragile flora and fauna found in this unspoiled forest area.

Geothermal, like hydroelectric energy, can only be located where the energy source is found, and in this case it is along the geologically active Kilauea east rift, 2 to 3 miles wide, about 25 miles long.

After excluding populated areas and lands within the national parks, the geographic choices quickly narrow. In the first application there were more than 50 witnesses cross-examined by counsel from 7 organizations and 25 individuals. And the board issued an extensive 200-page decision delineating the flora and fauna in this area.

Subsequently, Hawaii's Legislature created special geothermal resource subzones and directed the land board to assess the entire State by weighing seven different criteria. The land board has done that. Kahauale'a was originally designated. At that time Pu'u O vent began to erupt. It averages an eruption every 3 weeks. The State became more aware of the Park Service's interest in acquiring tract 22.

The land board then looked at the middle east rift, and if you look at the map, that's the area in the center, and proposed to the Campbell Estate that there be a land exchange involving about 27,000 acres of State land and 25,000 acres of Campbell land in order to resolve the environmental concerns, the National Park Service concerns, the developer's concerns. That land exchange was consummated.

Subsequently, in fact in the last 4 months, the land board has designated the middle east rift as a geothermal resource subzone and only this week issued a final order issuing a conservation district use permit to Campbell Estate and True Mid-Pacific to develop up to 100 megawatts of geothermal energy in that area.

Last October it became apparent that due to Hawaii's legislation deadline which a mid-January to mid-April session, plus a permitting process where we were literally counting every day over about a 6-month period, that the only way to consummate that would be for the State to actually enter into the exchange with Campbell, acquire the title to tract 22 in order to consummate this matter.

We did that. The only thing left in the entire exchange now is to resolve the tract 22 acquisition and we hope that this committee will favorably recommend S. 2320 in order to resolve those final problems.

Thank you.

[The prepared statement of Mr. Tam follows:]

Senate Bill S. 2320

Testimony of the State of Hawaii
By William M. Tam, Deputy Attorney General
State of Hawaii, Before the

Subcommittee on Public Lands
Senate Natural Resource and Environment Committee
Senator Malcom Whallop, Chairman

Mr. Chairman:

The State of Hawaii supports and urges the adoption of S. 2320. This bill will help facilitate and finally consummate a four year administrative hearing process to develop alternative energy geothermal resources on the Island of Hawaii while protecting 5,650 acres of pristine wilderness and environmentally sensitive land (identified as Tract 22) adjacent to the Hawaii Volcano National Park on the Island of Hawaii. This land exchange proposal, which originated with the local Volcano Community Association as part of a larger land exchange between the State and Campbell Estate, was recommended by the State of Hawaii's Board of Land and Natural Resources as part of a solution to the conflicts that arose in developing geothermal energy in the Puna district on the Island of Hawaii.

To give you some historical background, beginning in 1982, the State Board of Land and Natural Resources began the first of five administrative contested case hearings over four years that have required more than 31 days and nights of hearings which in turn have spawned nine (9) separate lawsuits. The developer and landowner Campbell Estate originally proposed to explore, develop and produce 250 megawatts (MWE) of electrical energy from five geothermal power plants and more than 90 wells on 21,943 acres of land adjacent to the Hawaii Volcano National Park. The Board had to balance the need to develop alternative renewable energy resources (Hawaii is 90% dependent upon imported oil for its energy) with the need to protect fragile flora and fauna found within this unspoiled forest. The Board was faced with a special problem in siting this project. Geothermal energy, like hydroelectric energy, can only be placed where the energy source is located. In this case the geothermal potential lies along the geologically active Kilauea east rift zone (2 to 3 miles wide and about 25 miles long) beginning at the Kilauea crater and moving seaward. After excluding populated areas and lands within the national park, the geographic choices quickly narrow. During fifteen days of hearings on the first application, more than fifty witnesses testified and were cross-examined by counsel for seven organizations and 25 individuals. The Board issued an extensive 200 page decision and order detailing the biological, geological, meteorological, noise, air quality, and socio-economic data in Kahauale'a.

Subsequently, Hawaii's Legislature created special geothermal resource subzones (Act 296, 1983 Hawaii Sess. Laws; Act 151, 1984 Hawaii Sess. Laws now codified in Hawaii Revised Statutes, §§205-5.1 and -5.2) and directed the Board of Land and Natural Resources to assess the entire State by weighing seven criteria in order to designate areas suitable for geothermal development. The Board assessed the Kahauale'a land and designated a portion of it as a geothermal resource subzone. However, by this time Kahauale'a was undergoing regular volcanic eruptions at Pu'u O vent about every three weeks. The Board was also aware of the National Park Service's strong desire to bring Tract 22 into the Volcano National Park. Taking up a suggestion made by the local community, the Board recommended to Campbell Estate that they propose a land exchange with the State: the State would exchange approximately 27,785 acres of its land for 25,807 acres of Campbell land (which included 3,286 acres of higher valued agricultural land). The Board also directed that the middle east rift zone be assessed for potential geothermal development. In the last eight months, the Board considered and designated the middle east rift as a geothermal subzone and most recently authorized a conservation district permit for exploration and development in the middle east rift. The State and Campbell Estate have entered into the land exchange contemplated in the order. Only Tract 22 remains to be resolved.

Originally, Campbell Estate as the landowner was to exchange Tract 22 with the National Park Service. However, legislative and permit deadlines required the State to become an intermediary and act as a third party through which to facilitate this exchange. The State did not intend to acquire Tract 22 because of the National Park Service's desire to place it within the Hawaii Volcano National Park. The State has only taken title to resolve timing problems that arose as a result of Hawaii's Legislature which only meets once a year from mid-January to mid-April.

Tract 22 is the final and critical piece in this elaborate but ultimately desirable resolution of both energy and conservation needs in Hawaii. We strongly urge the adoption of S. 2320.

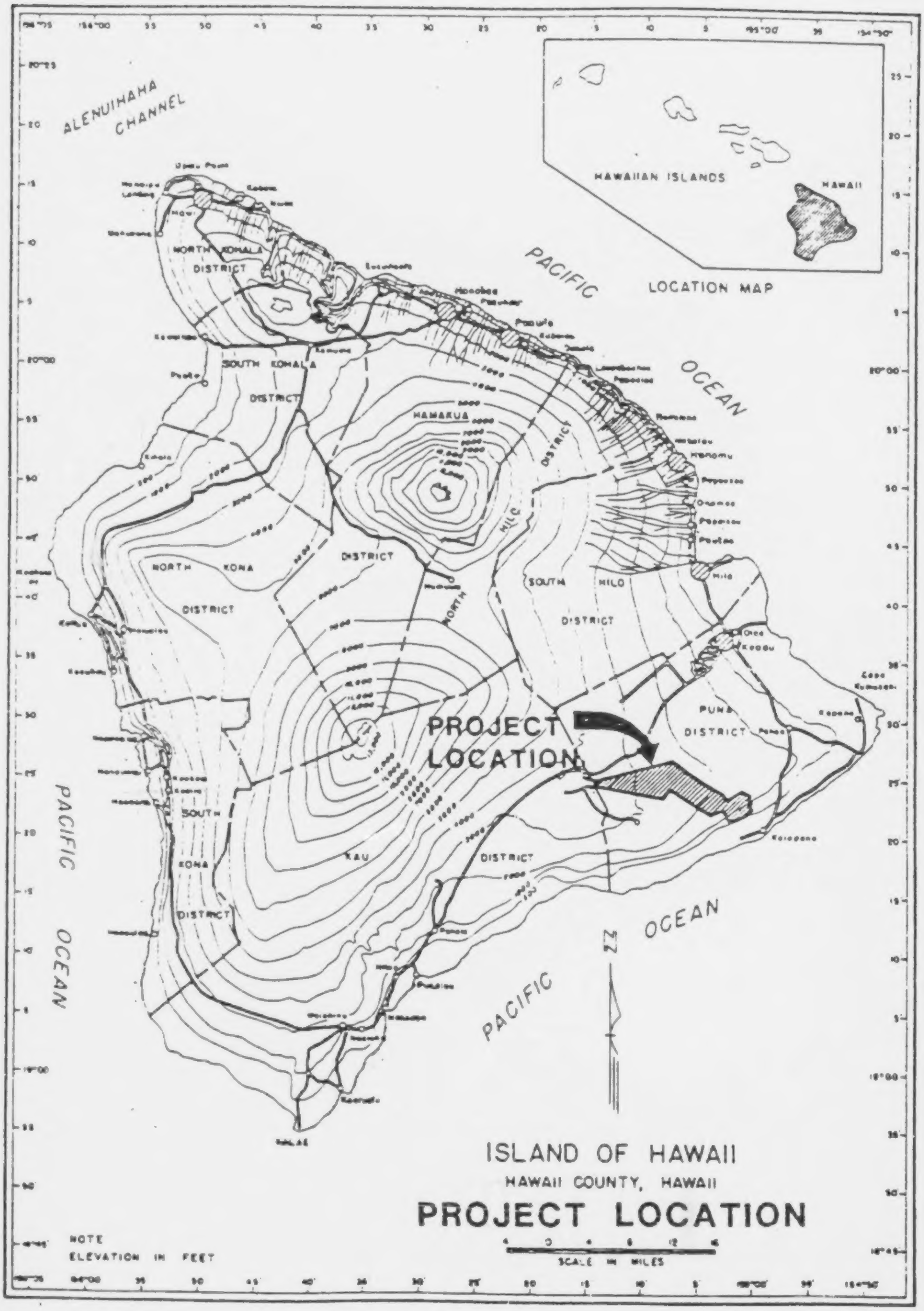
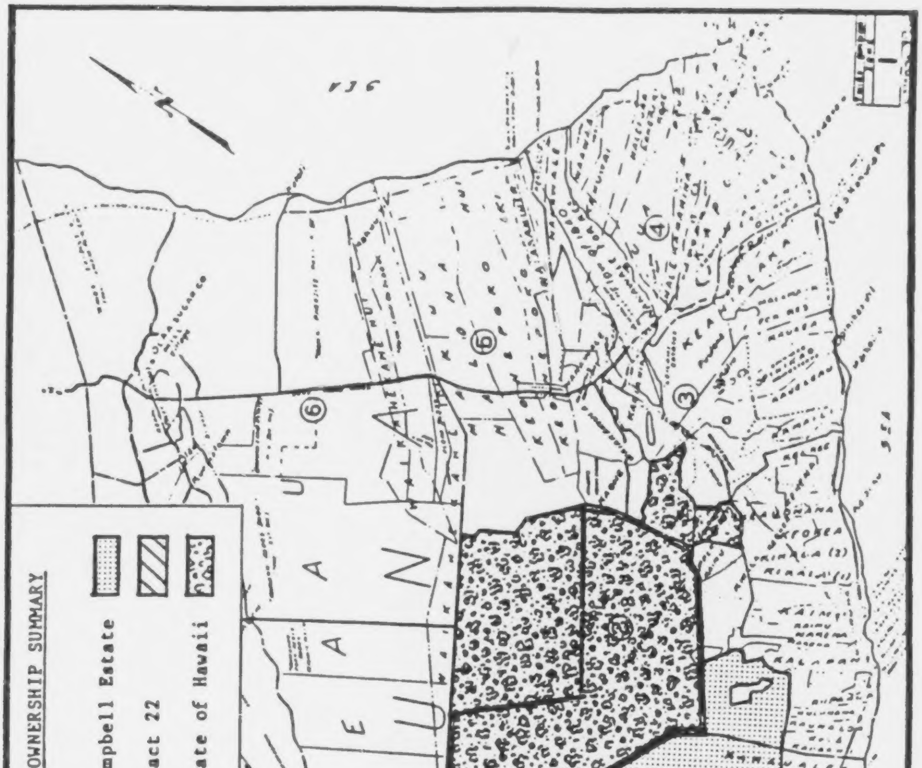

ALENUIHAHA CHANNEL
HAWAIIAN ISLANDS
HAWAII
LOCATION MAP
PACIFIC OCEAN
NORTH KOHALA DISTRICT
SOUTH KOHALA DISTRICT
HAMAKUA DISTRICT
NORTH HILO DISTRICT
SOUTH HILO DISTRICT
NORTH KONA DISTRICT
SOUTH KONA DISTRICT
KAU DISTRICT
PUNA DISTRICT
Hilo
Honomu
PROJECT LOCATION
PACIFIC OCEAN
PACIFIC OCEAN
ISLAND OF HAWAII
HAWAII COUNTY, HAWAII
PROJECT LOCATION
NOTE
ELEVATION IN FEET
SCALE IN MILES

FIGURE 2-1


OWNERSHIP SUMMARY
Campbell Estate
Tract 22
State of Hawaii
LEGEND
② INDICATES SECTION NUMBER
UPPER OLAA FOREST RESERVE
OLAA FOREST RESERVE
KAMOAMOA
LAEAPUKI
PANAUIKI
PANAUNUI
ZONE
KAU
SEA

Senator WALLOP. Thank you, Mr. Tam.

You know, I think we might want to delay this and go there and have a hearing.

Senator EVANS. I think that would be appropriate.

Mr. PIERCE. Senator, may I take up one more——

Senator Wallop. Yes, I understand, Mr. Pierce. I was getting to you. Please proceed.

STATEMENT OF ROBERT PIERCE, ADMINISTRATOR, NATIONAL PARK TRUST, NATIONAL PARKS AND CONSERVATION ASSOCIATION, ON S. 2320

Mr. PIERCE. I just want to explain why GSA became involved in this process because this will come up. Hawaii has no public lands so we could not use FLPMA for an exchange. We looked into the idea of using the Federal Property Administrative Services Act in combination with FLPMA, but when you get into the battles between the agencies and exchanging properties and transferring properties, and then getting excess property out of GSA before it's disposed, it was almost an improbable proposition, given the timing constraints that the State of Hawaii had.

So the State would be totally left out of the exchange process if we didn't come up here and ask for congressional action.

Simply, S. 2320 directs the Secretary of the Interior to request and receive jurisdiction over a tract of surplus Federal property from GSA. That property will be exchanged with the State of Hawaii which by the time of the request will have acquired tract 22.

The ability of the Secretary of the Interior to utilize surplus Federal property in the exchange process can be viewed as a trading up on the Federal estate. The land which will be acquired has resource values that are unique and possibly priceless and will benefit the citizens of the United States for generations to come.

This tradeoff makes sense both economically and in the sense of the national interest as it has been defined under FLPMA. So NPCA appreciates the opportunity to testify today.

[The prepared statement of Mr. Pierce follows:]

STATEMENT OF ROBERT PIERCE
ADMINISTRATOR, NATIONAL PARK TRUST
NATIONAL PARKS AND CONSERVATION ASSOCIATION

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS,
RESERVED WATER AND RESOURCE CONSERVATION

JUNE 20, 1986

Mr. Chairman and other distinguished members of the Subcommittee, I am Robert Pierce representing the National Park Trust of the National Parks and Conservation Association. I sincerely appreciate the opportunity to appear before the Subcommittee to present NPCA's views on S. 2320.

The legislative proposition S. 2320 outlines is part of a three party land exchange involving the federal government, the State of Hawaii, and a private landowner. The bill would facilitate an exchange allowing the National Park Service to acquire its number one acquisition priority in Hawaii Volcanoes National Park, a 5650 acre tract of virgin rainforest commonly referred to as Tract 22. The tract is a roadless wilderness area bordered by the park on three sides and it encompasses an ecosystem not yet adequately represented in the whole of the National Park System. Its acquisition by the National Park Service would protect the habitat of two endangered species as well as other natural features found within present park boundaries.

This exchange proposal originated with an attempt by a private party to develop Tract 22's geothermal resources. Development plans called for wells to be located within 1000 feet of the park boundaries. Surface disturbance and attendant air pollution from the development would have greatly degraded the park's pristine qualities and threatened wildlife habitat.

Over the past two years the State of Hawaii has actively worked to move this development away from the park while seeking an alternative geothermal development site. As a means of facilitating both of these equally important considerations, the State proposed a two party land exchange with the owner of Tract 22. At the same time, recognizing both the value of Tract 22 as an integral part of the Hawaii Volcanoes ecosystem and the Park Service's desire to have management capabilities over the tract, the State encouraged the Park Service to find a means of acquiring the parcel for inclusion

National Parks and Conservation Association, 1701 Eighteenth Street, N.W., Washington, D.C. 20009
telephone (202) 265-2717

into Hawaii Volcanoes. This set the stage for a possible three party land exchange and brings us together today.

The need for Congressional action to facilitate the federal government's participation in this land exchange is based on statutory and regulatory constraints that will not allow such an exchange to take place through pure administrative action. There is a clause in the enabling legislation for the park which prohibits the acquisition of the tract by any means other than donation. Also, the remnants of the Administration's asset management program and the provisions of the General Services Administration's regulatory protocol would tend to keep such an exchange from coming to fruition. We are now at a stage in the development of the National Park System where we need to identify opportunities that will allow the exchange process to be used as a companion to the ongoing appropriations process. This bill provides that opportunity without incorporating the plethora of administrative problems facing some exchange initiatives which in the end cause them to fail under their own weight.

S. 2320 directs the Secretary of the Interior to request and receive jurisdiction over a tract of surplus federal property from the General Services Administration. That property will be used in an exchange with the State of Hawaii, which by the time of the request, will have acquired Tract 22 in exchange for State lands located north of the park. The State is contributing some of its coveted and limited land base in exchange for land found excess to the needs of and marked for disposal by the federal government. The ability of the Secretary of the Interior to utilize surplus federal property in the exchange process can be viewed as a trading up on the federal estate. The federal government is giving up some of its unwanted land in exchange for land that is very much desired as an addition to the National Park System. That land which will be acquired has resource values that are unique and possibly priceless and will benefit the citizens of the United States for generations to come. The tradeoff makes sense both economically and in the sense of the national interest as it has been defined in the context of the Federal Land Policy and Management Act of 1976.

NPCA supports the enactment of S. 2320 as a sensible mechanism to allow the National Park Service to acquire this valuable tract of parkland, while allowing energy development to proceed in a manner beneficial to the State of Hawaii.

We appreciate the opportunity to testify today and would be happy to answer any questions.

Senator WALLOP. Thank you very much.

Senator Evans, do you have questions?

Senator EVANS. I will try to keep it down, Mr. Chairman, because I know we have many other witnesses to come and there have been a number of proposed amendments to the particular bill that I have special interest in our State, and I will want to look at the recommendations, in fact, of all of the witnesses who have suggested further additions, deletions, and changes from the initial bill.

It will be important to try to do that to get a better understanding of timber bays, of land types, of the other elements at stake, and we may want to come back and ask some of these witnesss specific questions later on.

Senator WALLOP. It is important for the witnesses to have the confidence, despite the time contraints—I recognize them—that your entire statements will be part of the record, even that which was not able to be delivered.

Senator EVANS. And I would say certainly as far as the Olympic National Park and Forest exchange is concerned, I have already looked quite explicitly at the proposal which obviously is a proposal that carries my sponsorship, but also at some of these additions and deletions and I may want to come back to individual people.

But let me ask just two or three questions. First, Mr. Chairman, I would like a letter from the Department of the Interior to the Federal Energy Regulatory Energy Commission to be entered into the record. It relates to the Glines Canyon Dam. They are seeking a response from Crown Zellerbach, although I think it is more accurate to say now that James River Corp. bought that facility from Crown Zellerbach. And they are to reply by June 30, and I would ask that that letter, when received, be entered into the record at an appropriate place in the testimony, along with the testimony of these witnesses that relates to Glines Canyon.

Senator WALLOP. By all means.

[The information referred to follows:]

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Terry

ER 78/413 & ER 80/696

[illegible] 1 [illegible]

Honorable Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

Dear Mr. Plumb:

The Department of the Interior hereby files supplementary comments to our letters to the Federal Energy Regulatory Commission (FERC) of August 18, 1978, and September 19, 1980, commenting on the application for relicensing of the Glines Canyon Project (GCP), FERC Project No. 588, and the application for a license for the Elwha Project (EP), FERC Project No. 2683, respectively. These projects are located on the Elwha River in Clallam County, Washington. Both projects are located within the usual and accustomed fishing places of the Lower Elwha and Port Gamble Klallam and Makah Indian Tribes as adjudicated in United States v. Washington, Amendatory Order of May 24, 1983, Civil No. 9213, and Finding of Fact No. 65, 384 F. Supp. 364, respectively. The GCP is located within the boundaries of Olympic National Park (ONP).

The Elwha River drains a major park watershed of approximately 273 square miles and runs for 40 miles from its headwaters to the park boundary. The river, on leaving the ONP, flows approximately five miles before entering the Elwha Indian Reservation at the mouth of the river. The EP is within this five mile reach and not within the Reservation. On September 22, 1976, the Department of the Interior was granted Intervenor status on the EP, based upon a recognition of the project's impacts to the Lower Elwha Indian Tribe's treaty reserved fishing rights and upon a recognition of the project's contribution to extensive flood damage on the Lower Elwha Indian Reservation.

Federal Takeover

The Department of the Interior does not wish to exercise the provisions of Section 14 of the Federal Power Act (FPA) regarding Federal takeover.

Jurisdiction

The EP is subject to FERC's licensing authority pursuant to the FPA and is not subject to the Secretary of the Interior's mandatory conditioning authority pursuant to Section 4(e) of that Act.

The GCP was given its first license in 1926 by the Federal Power Commission (now FERC). At the time of licensing in 1926, the project was located within Olympic National Forest. In 1940 the GCP was included within an expanded boundary of ONP. The ONP legislation is silent on the issue of FERC jurisdiction of the GCP.

FERC is authorized by Section 15(a) to issue new licenses, but is required to make the same inquiries during this proceeding as in the initial licensing. Section 15(a) authorizes the FERC to issue such a license to the original licensee or to an applicant other than the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations. Therefore, the FPA requires that consideration of the application to license the continued operation of GCP must address the fact that the project is within a national park.

Under the provisions of 16 U.S.C. 796(2) and 797(a) of the FPA, the FERC has no jurisdiction to license hydroelectric projects within units of the National Park System including ONP. Further, only Congress can specifically authorize the continued operation of GCP. Similar authorization was recently proposed in legislation concerning the Kaweah Number 3 Project (FERC No. 298) in Sequoia National Park. The Department of the Interior has reviewed the situation at Glines Canyon and would support specific congressional authorization for FERC to license this facility if the legislation included: (1) recognition of the Secretary's mandatory conditioning authority in Section 4(e) of the FPA in the Commission's licensing deliberation for this project; and (2) provisions limiting the licensing of the Glines Canyon facility to a ten-year term with the option to apply for additional ten-year term licenses. However, if legislative action is not forthcoming within a reasonable time, FERC must initiate those necessary actions that normally are its responsibility upon termination of a license.

Coordinated Proceeding

As we stated in our 1978 and 1980 letters, neither license application adequately addresses measures necessary to mitigate the substantial losses of anadromous fish resources, upland wildlife resources, and other ecosystem disruptions or to restore in kind these resources within ONP caused by the initial construction and continued operation of these projects. We know of no action on the part of FERC to require the applicant to correct the identified deficiencies in the existing "Exhibit E" for either project. We were unable to finalize our views and recommendations during the initial notice period for these projects because of the need to develop substantial additional information on the adverse effects on fish and wildlife resources and on project related flood problems.

Both the GCP and the EP are operated by Crown Zellerbach Corporation in electrical and hydraulic tandem. Because the development of successful mitigative and restorative measures requires interrelated management of the two projects, we continue to recommend that any licensing proceedings for the EP project be coordinated with this Department.

Dam Safety and Flooding

Our 1978 and 1980 letters expressed substantial concern about the safety of the dams and about the flooding of the Lower Elwha Indian Reservation that has occurred as a result of project operation. The lives, homes and businesses of many people may be endangered by these structures. This situation has infringed upon the exclusive and beneficial uses of the Lower Elwha Indian Reservation lands. After more than 10 years this issue has still not been resolved.

These structures are old and any settlement concerning their continued operation must adequately address this issue and provide for rehabilitation to ensure the safety of residents of the Elwha Valley. Through consultation with the Lower Elwha Indian Tribe, the Department of the Interior and FERC, Crown Zellerbach must develop appropriate studies to address the issues of dam safety and flood control that have repeatedly been raised by this Department and others.

Anadromous Fishery

To our knowledge FERC has taken no significant action pursuant to our recommendations for additional studies of project effects on anadromous fisheries. In the past three years, the Department's National Park Service (NPS) and Fish and Wildlife Service (FWS) have begun a review and investigation of various possibilities for restoration of the anadromous fishery in the Elwha River. Studies needed to evaluate the potential for structural and operational modifications to improve fish passage at each dam have been identified.

The NPS has adopted the objective of restoring or maintaining natural species composition of native fish, especially stocks of anadromous fish, to all streams within ONP, including the Elwha River (ONP Resources Management Plan, 1983). As a result, the NPS contracted with the FWS to study the feasibility of the restoration of anadromous fish to the upper Elwha River.

Subsequently, the FWS conducted several field studies, including an examination of juvenile coho mortality at the GCP and EP. The FWS prepared a preliminary report entitled "A Review of and Proposed Solution to the Problem of Migrant Salmonid Passage by the Elwha River Dams." This preliminary report describes one solution which, if successful at several sequential steps, would partially restore the anadromous fishery in the Elwha River and retain most of the generating capacity of the existing projects. This report was given wide distribution. Comments were received from several State and Federal agencies, Indian Tribes and conservation groups. The preliminary report identifies a number of data needs and suggests conducting additional investigations at several decision points to determine whether progression to the next step is warranted. The preliminary report is still under review. However, the concept of sequential field testing and further investigations to develop the additional data identified in the preliminary report is expected to receive the support of other resource agencies and the tribes.

The scope of project-related fish and wildlife issues has grown substantially since the initial notice periods in 1978 and 1980. While there has been some progress made toward the identification of measures needed to achieve restoration of the Elwha River fish runs, we are at the point where additional progress or resolution cannot be made without the full cooperation of Crown Zellerbach. We therefore request that Crown Zellerbach initiate consultation immediately with all interested resource agencies including, but not limited to, the Point-No-Point Treaty Council (which represents the Lower Elwha Indian Tribe), the Bureau of Indian Affairs, the FWS, the NPS, the National Marine Fisheries Service, and the Washington State Departments of Game and Fisheries. Recognizing the Secretary's rights under Section 18 of the FPA the purposes of this consultation effort are:

1. To discuss and implement additional fish and wildlife studies necessary to complete the findings of the preliminary report noted above, and

2. To develop fish and wildlife terms and conditions consistent with the purposes of ONP and the benefit of tribal interests for the continued operation of these projects under any future jurisdictional arrangement.

The development of a fishery restoration proposal should be based upon a strategy of first determining how to operate the hydroelectric projects to enhance and maintain outmigrant smolt survival before evaluating alternatives for upstream fish passage. Subsequent studies funded by Crown Zellerbach would determine how these project changes influence fish mortality. Development of specific study needs and evaluation of proposed passage measures should be coordinated with the recently established Elwha River Steering Committee.

Potential topics to be evaluated by Crown Zellerbach include, but are not limited to, the following:

1. Determine pre-project production levels for anadromous and resident fish habitat inundated or otherwise affected by construction and operation of the projects. Prepare an evaluation of the economic impact of fish production losses on the Lower Elwha Indian Tribe and the loss of recreation opportunity to the public. Develop and propose means to compensate for these losses.

2. Evaluate interim juvenile fish passage criteria including:

    a. The amount of water necessary to move chinook and steelhead smolts over the GCP spillway at Lake Mills. Provide daily spillway releases at the GCP in the quantity necessary to pass emigrants during the outmigrating period while avoiding overtopping.

    b. The characteristics of the chinook and steelhead juvenile outmigration.

    c. Exit selection by chinook and steelhead smolts at both dams.

3. Evaluate total mortality of chinook and steelhead smolts passing both dams under the criteria established in number 2 above.

4. Conduct an analysis of the sedimentation that would be deposited in the Elwha River in the absence, and during the removal, of one or both dams. Evaluate the effect of both situations on freshwater and marine fish resources, and in terms of beach nourishment at Ediz Hook and other locations within the project's area of influence.

5. Evaluate the impacts on spawning as a result of gravel starvation in the river due to the dams.

6. Evaluate the effects of project-caused flow modifications on salmonid river transport and stranding.

7. Determine pre-project and post-project upland wildlife use of the project area and surrounding lands, especially regarding the following species: Roosevelt elk, black-tailed deer, and black bear.

8. Evaluate the effect of proposals to reestablish upper Elwha River anadromous fish runs on the Lower Elwha Indian Tribes present terminal fishery below the Elwha Project. This could be accomplished through development of stock and recruitment models taking into consideration the ecosystem restoration needs of ONP, and present and future co-management plans developed by the Lower Elwha Indian Tribe and the State of Washington.

NEPA Compliance

An environmental impact statement may be necessary for any Federal action taken on these projects. Because of the interrelated nature of the two projects and the complex and cumulative nature of the impacts, we recommend that one environmental document be prepared combining both projects.

Summary

As stated earlier, the GCP is located within a national park and FERC has no jurisdiction unless Congress provides specific authority. The Department of the Interior would support specific congressional authorization for GCP if the conditions discussed above are provided. If legislative action is not forthcoming within a reasonable time, FERC must initiate those procedures necessary to properly terminate the GCP license.

Sincerely,

William P. Horn
Assistant Secretary for Fish
and Wildlife and Parks

cc: Mr. Fred E. Springer
Crown Zellerbach Corporation

CrownZellerbach
Port Angeles Mill

June 25, 1986

NW PUBLIC AFFAIRS/
CORP. COMMUNICATIONS

JUN 30 1986

RECEIVED

Perkins, Coie Stone Olsen & Williams
411-108 Avenue N.E.
Suite 1800
Bellevue, WA 98004

Reference: Elwha Dam Safety Modifications - Project File# 970

Attention: Peggy Derick

Dear Peggy;

Safety modifications to Glines and Elwha Dams date back to 1968. In that year, the Federal Power Commission ordered work on Glines Dam costing $32,000. Included were: 1. removal of a concrete bridge spanning the arch dam, which could impede the passage of logs and floating debris during high flood flows in the river; 2. placement of rock riprap to prevent washing out the Dam abutments during floods, and, 3. installation of vertical reinforcing tendons in the gravity section to prevent failure from overturning or sliding during high river discharge flows.

During the years 1974 through 1976, safety inspections, engineering studies, and the derivation of a Probable Maximum Flood (PMF) level of 149,000 cubic feet per second for Glines Dam were completed at a cost of $25,000.

In 1976, the FPC ordered Glines Dam modified to be able to safely pass the PMF. The work included: 1. increasing the height of earthen abutments to channel flood waters over the concrete arch dam and spillway sections, avoiding washout of the abutments; and, 2. installing additional reinforcing tendons in the gravity section. This work was completed in 1977 at a cost of $105,000.

In 1978, the Army Corps of Engineers commissioned a safety inspection of Elwha Dam as a part of a national program ordered by the President of the United States. The Corps' principle finding was that the Dam was unsafe to pass the estimated PMF. Crown Zellerbach retained CH2M Hill, who actually made the Elwha Dam inspection for the Corps, to conduct a flood study, derive the actual PMF, and determine physical changes needed to strengthen the Dam. Under orders from FERC, the structural modifications were carried out in 1979 - 80 at a cost of $600,000.

Port Angeles WA 98362

The safety modification work included: 1. concrete surface restoration; 2. pressure grouting of fissures in concrete and rock structures; 3. vertical tendon reinforcing of the South spillway, North spillway, and gravity dam sections to stabilize them under PMF river flows; installation of a second piezometer (manometer) to provide additional monitoring of hydraulic forces acting on the upstream face of the gravity dam; and rebuilding of the bridge across the top of the Dam.

Out of the post-completion audit made by FERC around the safety modifications, questions were raised about the procedures used to stress the vertical tendons. Specifically, FERC was concerned about apparent excessive elongation of certain tendons. We were unable to provide satisfactory answers to FERC, and, in 1984 they ordered us to retain an independent Board of Consultants to evaluate the design and construction of the safety modifications made. The Board was also to determine whether the work done would enable the Dam to safely pass the PMF.

In their final report, the Board of Consultants determined that there was no problem with the design or construction procedures used, and, that tendon-stressing-elongation was within normally acceptable limits. However, the Board did discover that the tendon anchor grout was placed too high in the structure. As a result, compression forces were ineffective in reinforcing the lower elevations of the structure. The tendoning would have to be redone. In 1985, FERC so ordered, and construction was completed in March of 1986 at a cost of $400,000. The final construction report is in the hands of our Board of Consultants, who will review and approve the work in accordance with FERC's requirements.

As an outgrowth of the errors made in 1979 - 80, which led to redoing the safety modifications for the South spillway and gravity sections, a re-check of design criteria was made for the North spillway and intake sections. Initial engineering analysis in 1979 - 80 led to the conclusion that reinforcing against PMF conditions was not required. The 1986 review turned up discrepancies which, when corrected, appear to indicate that strengthening of these sections is required. Estimated cost for this work is about $270,000. Engineering calculations and supporting data are being forwarded to the Board of Consultants for review and confirmation.

In summary, $162,000 has been expended to date on safety modifications to Glines Dam. Expenditures for Elwha Dam are at $1 Million, with the probability of an additional $270,000 in the near future.

Sincerely,

Orville W Campbell

Orville W. Campbell
Plant Engineer

CZ:Port Angeles Mill
OWCAMPBELL/skc

cc: R. J. Morgan
D. E. Kelley
Jack Brown - Portland Office

0970LET2.DOC

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
ONE BELLEVUE CENTER, SUITE 1800 • 411-108TH AVENUE NORTHEAST • BELLEVUE, WASHINGTON 98004
TELEPHONE (206) 453-6980

June 27, 1986

Mr. Kenneth F. Plumb
Secretary
Federal Energy Regulatory Commission
825 North Capital Street N.E.
Washington, D.C. 20426

Re: Project No. 588 (Glines Canyon):
Project No. 2683 (Elwha)

Dear Mr. Plumb:

Enclosed for filing please find the original and 14 copies of Crown Zellerbach Corporation's Answer to Supplementary Comments by Department of Interior, and to motions and petitions by several intervenors and potential intervenors in the above referenced proceedings.

Thank you for your assistance.

Very truly yours,

Priscilla W. Derick

PWD:0532d
Encl.

cc: Service List (with encl.)

NW PUBLIC AFFAIRS/
CORP. COMMUNICATIONS

JUN 30 1986

RECEIVED

TELEX 32-0319 PERKINS SEA • FACSIMILE (GP I,II,III): (206) 453-7350
OTHER OFFICES: ANCHORAGE, ALASKA • PORTLAND, OREGON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon every party to this proceeding in accordance with the Commission's Rules of Practice and Procedure.

Dated at Bellevue, Washington this 27th day of June, 1986.

Priscilla W. Derick
Perkins Coie
411 - 108th Avenue N.E.
Suite 1800
Bellevue, Washington 98004

Telephone: (206) 453-6980

UNITED STATES OF AMERICA
BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

CROWN ZELLERBACH CORPORATION	)	PROJECT NO. 588
	)	(GLINES CANYON)
	)	PROJECT NO. 2683
	)	(ELWHA)

CROWN ZELLERBACH CORPORATION'S ANSWER TO SUPPLEMENTARY COMMENTS BY DEPARTMENT OF INTERIOR, AND TO MOTIONS AND PETITIONS BY SEVERAL INTERVENORS AND POTENTIAL INTERVENORS

June 27, 1986

Crown Zellerbach Corporation ("Crown Zellerbach" or "Applicant") hereby files this answer in both of the above captioned dockets pursuant to Rule 213 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.213) in accordance with the time set forth in a May 13, 1986, letter from the Acting Director, Office of Hydropower Licensing, and a June 11, 1986, Notice of Extension of Time. This answer responds to issues contained in the following documents:

1. "Supplementary Comments" dated February 13, 1986, by the Department of Interior ("Interior");

2. "Motion for Intervention, Consolidation, a Conference, and Other Relief," dated January 24, 1986, by the Lower Elwha Indian Tribe's ("Tribe");

3. "Motion for Late Intervention and Petition for Fishery Conditions," filed April 30, 1986, by the National Marine Fisheries Service ("NMFS"); and

4. "Motion for Late Intervention; Petition to Consolidate Proceedings; Petition to Deny License Application No. 588; Petition to Deny License Application No. 2683; Petition For Removal of Glines Canyon Dam Project No. 588; and Petition For the Removal or Rehabilitation of Elwha Dam Project No. 2683," by the Seattle Audubon Society, Friends of the Earth, Olympic Park Associates, and the Sierra Club (collectively the "Societies").[1]

I. INTRODUCTION

Crown Zellerbach currently owns and operates two hydroelectric projects on the Elwha River in western Washington, one known as Glines Canyon (Project No. 588) and one known as Elwha (Project No. 2683). Glines Canyon, with an installed capacity of 16.5 megawatts, was licensed in 1926 by the Federal Power

---

[1] On June 2, 1986, Crown Zellerbach filed an Answer in Opposition to Motion for Late Intervention by Seattle Audubon Society, et al. As noted therein, the issues raised by the Societies are essentially the same issues raised by the Tribe and governmental agencies whose intervention Crown Zellerbach does not oppose. The Commission has not yet ruled on the Societies' motion to intervene out of time. To the extent this pleading responds to assertions made by the Societies, Crown Zellerbach does not waive its opposition to the Societies' intervention.

Commission, for a 50-year period ending in 1976. In accordance with the Federal Power Act and Commission regulations, in 1973 Crown Zellerbach filed an application for relicense, which application is now pending.

The Elwha Project (No. 2683), which has an installed capacity of 13.2 megawatts, began commercial operation in 1913. During the 1960's and 1970's, a series of court decisions addressed Commission jurisdiction over projects constructed prior to passage of the Federal Power Act. In 1968, following the United States Supreme Court's decision in the Taum Sauk case, Union Electric Company v. F.P.C., 381 U.S. 90 (1965) in which it appeared the Commission would have jurisdiction over projects like the Elwha Project, Crown Zellerbach filed an Application for Major License. In 1976, based on Farmington River Power Company v. F.P.C., 455 F.2d 86 (2d Cir. 1972), Crown Zellerbach filed a motion seeking a declaratory order that the Commission was without jurisdiction and that Crown Zellerbach should be permitted to withdraw its license application. After an evidentiary hearing, the Presiding Administrative Law Judge ruled that the Commission had licensing jurisdiction over the Elwha Project, and directed the Applicant to refile a new application for license. See Crown Zellerbach Corporation, Project No. 2683, "Initial Decision Finding Licensing Jurisdiction Over Elwha Dam," 5 FERC ¶ 63,033 (December 11, 1978), affirmed, 6 FERC ¶ 61,240 (March 16, 1979). On

May 21, 1979, Crown Zellerbach filed its Amended Application for License for the Elwha Project. That Application is now pending.

In the last few months, several pleadings have been filed regarding both the Glines Canyon and Elwha projects. Because these pleadings raise similar or common issues, Crown Zellerbach requested and received permission to file this one answer by June 30, 1986.

II. DISCUSSION

A. Consolidation Into One Project

As an initial matter, several intervenors have raised the basic question whether the FERC should treat the Glines Canyon and Elwha facilities as one project or two for licensing purposes. NMFS asserts in its Motion at page 17,

> Project Nos. 588 and 2683 are operated by Crown Zellerbach in electrical and hydraulic coordination as separate components of one project.

Similarly, the Tribe, Interior and the Societies urge that Glines Canyon and Elwha are one project. See Tribe Motion pages 9-12, Interior Supplementary Comments page 2, Societies' Motion pages 9-10.

The Commission staff has also argued for one jurisdictional "Glines - Elwha" project. During the 1978 hearings to determine whether the Commission had licensing jurisdiction over the Elwha Project (No. 2683), the staff asserted as one basis for such jurisdiction that the Commission had jurisdiction over the Elwha development because of the relationship between the two projects. In its Hearing Brief filed March 20, 1978 at page 7 the staff concluded,

> Testimony and exhibits filed in this proceeding demonstrate that the Elwha development is coordinated both electrically and hydraulically with the jurisdictional Glines Canyon development and that, together, the two developments form one unit of development, one jurisdictional project, and should be licensed as such.

No party contested the staff's position regarding one consolidated project during the 1978 Elwha proceeding. In his Initial Decision Finding Licensing Jurisdiction over Elwha Dam (December 11, 1978), although he based his finding of jurisdiction on other grounds, the Presiding Administrative Law Judge said,

> The record contains substantial, probative and uncontroverted evidence showing that the Glines Dam and the Elwha Dam are jointly operated and hydraulically and electrically coordinated.

5 FERC ¶ 63,033.

Crown Zellerbach agrees that the Glines Canyon and Elwha facilities are hydraulically and electrically interconnected, and that they are operated as a single, coordinated project. Under these circumstances, it appears that it may be appropriate for the Commission to treat the Glines and Elwha developments as a single project for licensing purposes.

B. FERC Jurisdiction to Relicense Glines Canyon Project

An issue of Commission jurisdiction to relicense the Glines Canyon Project has been raised by several intervenors. Interior states at page 2 of its Supplementary Comments,

> Under the provisions of 16 U.S.C. 796(2) and 797(a) of the FPA, the FERC has no jurisdiction to license hydroelectric projects within units of the National Park System including ONP [Olympic National Park]. Further, only Congress can specifically authorize the continued operation of GCP.

Crown Zellerbach disagrees with the assertion that the Commission lacks jurisdiction to relicense Glines Canyon. The facts are that the project was properly licensed by the Commission and constructed by the Applicant before the Olympic National Park was even created. Furthermore, even after the Park was established the major project works continue to be located on private land and only that portion of the project that was previously located on Forest Service land is now on national park land. The dam, penstock and powerhouse, as well as part of the reservoir were developed on land which Crown Zellerbach owned and continues to own in fee simple. Only part of the reservoir and approximately 2.5 miles of a total of 35 miles of transmission line from the project to the Port Angeles Mill are on national park land.

The Commission has previously determined it is not deprived of licensing jurisdiction over a hydroelectric project located on non-park land within a national park. See Town of Jackson, Wyoming, "Order Issuing Preliminary Permit," 32 FERC ¶ 61,135

(July 25, 1985). In Jackson, the Department of Interior had urged that the Commission had no jurisdiction over a project proposed to be located on the U.S. Bureau of Reclamation's Jackson Lake Dam and Reservoir. Although the project would be located on Bureau of Reclamation lands, Interior asserted that because it was on land surrounded by Grand Teton National Park, it was "within the boundaries" of that park and therefore should be considered to be in the park and beyond the jurisdiction of the Commission.

The Commission expressly rejected Interior's assertion, noting the actual land ownership and saying,

> The Commission is not deprived of . . . jurisdiction simply because the BOR land in question is surrounded by lands which are part of a national park.

32 FERC ¶ 61,135 at 61,352. The Commission recognized that a national park can have both exterior and interior boundaries and that land owned and/or controlled by another, although it may lie within the exterior boundary of the park, remains autonomous rather than part of the national park, and thus remains subject to Commission jurisdiction. The laws regarding Olympic National Park, like those regarding Grand Teton, confirm that the Park has both exterior and interior boundaries. See, for example, 16 U.S.C. §§ 251a, 251b and 251c.

Additionally, it is important to note that the Commission has already established that it has licensing jurisdiction over the entirety of the Elwha project, no portion of which is within even the exterior boundaries of Olympic National Park. Crown Zellerbach, supra, 5 FERC ¶ 63,033. If both the Glines Canyon and Elwha projects are to be treated as one for licensing purposes, the relative portion of that entire single project located on national park land becomes even more *de minimus*.

In the Federal Power Act Congress established the Commission as the entity with expertise and authority to evaluate, assess, interrelate and ultimately resolve all potentially competing issues and interests and to make the ultimate hydroelectric licensing decisions. Given the relatively minor extent to which any project facilities became located on Olympic National Park land by virtue of the legislative boundary changes described above, the argument that the Commission thereby has lost licensing jurisdiction is not legally or practically meritorious. The Commission should be allowed to fulfill its legislatively mandated function and apply its expertise to establish license terms and conditions for the Glines and Elwha projects.

C. Dam Safety

Two of the intervenors (the Tribe and Interior) have expressed concern over dam safety at the Elwha Dam. Crown Zellerbach recognizes that there has been an issue regarding stability of the Elwha Dam under Probable Maximum Flood conditions. Crown Zellerbach has made substantial project modifications to strengthen the dam, in accordance with Commission requirements. Over the past eight years, Crown Zellerbach has invested approximately $1,000,000 in safety studies and improvements for the Elwha Dam. Most of the recent work involved safety modifications to the South spillway and gravity sections of the dam. Such construction was completed in March of 1986, and Crown Zellerbach has submitted a final engineering report on the completed construction to the Board of Consultants which the Commission established to review the dam safety work. Crown Zellerbach anticipates that the Board of Consultants and the Commission will approve these dam safety improvements.[2]

D. Fisheries

A primary concern expressed by the intervenors is fisheries. Some parties imply that Crown Zellerbach has ignored fisheries issues on the Elwha and been unresponsive to the fisheries agencies' concerns. This implication is not correct, as evidenced by the fact, for example, that Crown Zellerbach has made substantial contributions to construction and operation of a Chinook salmon rearing pond on the lower Elwha in conjunction with the Washington State Department of Fisheries. As evidenced by a 1975 agreement between Crown Zellerbach and the Department of Fisheries, the Department of Fisheries has agreed that Crown Zellerbach's continuing contribution to such facility satisfies all legal requirements of the Department of Fisheries, and that such Department will not oppose issuance of licenses for the Glines and Elwha projects.

---

[2] In addition, from 1968-1979 Crown Zellerbach invested $162,000 in safety modifications to the Glines Canyon Dam resolving outstanding safety issues for that dam.

An overview of the pleadings demonstrates several general points:

> 1. Intervenors assert that the Glines and Elwha projects has adverse impacts on fisheries, particularly anadromous fisheries;
>
> 2. Over a period of years, a variety of studies relating to impacts have been or are being conducted by individual parties;
>
> 3. At this time there is no consensus among the parties as to impacts, much less consensus as to appropriate action or fisheries conditions for inclusion in a license (for example, at page 5 of its Motion, the Tribe expressed concern that the fisheries restoration alternatives being considered by Interior have the potential of interfering with the harvest of runs returning to the tribal hatcher.)

In recognition of these unresolved issues, Interior has requested that Crown Zellerbach "initiate consultation immediately with all interested resource agencies," and that this consultation be coordinated with the recently established Elwha River Steering Committee. Interior Supplementary Comments, pages 3-4.

Crown Zellerbach has authorized its counsel to engage fisheries consultants to assist the Applicant in assessing fisheries issues relative to the Glines and Elwha projects, and to assist the Applicant in its consultation with fisheries agencies. Such consultants have been retained and have begun work on the task of gathering and evaluating all relevant studies and other existing data regarding Elwha River fisheries resources and the effects of the dams on such resources.

Some parties are requesting specific additional studies regarding fisheries and project impacts. However, it would be premature to address what future studies would be appropriate until Crown Zellerbach's consultants have had an opportunity to fully understand and assess the extensive and various fisheries studies conducted to date.

Some parties, in their motions, have cited the recent opinion of the Ninth Circuit Court of Appeals in Confederated Tribes and Bands of the Yakima Indian Nation v. FERC, 746 F.2d 466 (9th Cir. 1984), cert. denied, ____ U.S. ____, 105 S. Ct. 2358 (1985) for the proposition that fisheries issues must be resolved prior to issuance of a license. Crown Zellerbach recognizes the need to resolve fisheries issues and intends to participate fully in an orderly process of identifying and resolving such issues.

Several parties have suggested that Crown Zellerbach should be required to refile, amend or supplement its license applications, particularly in regard to fisheries in the Elwha River and project impacts on such fisheries. Crown Zellerbach submits that the review of existing studies and the agency consultation discussed above should be completed first so that it can meaningfully assess what additional information or supplements regarding fisheries (or any other issues) would be appropriate.

E. Balancing Economical Power and Other Interests

Under Section 10(a) of the Federal Power Act, the Commission is charged with ensuring that a licensed hydroelectric project

> will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power development, and for other beneficial public uses, including recreational purposes. . . .

In other words, the Commission must balance all elements of the public interest. Some of the intervenors and potential intervenors apparently would have the Commission focus entirely on fisheries and ignore the importance of low cost power from these projects for the economic viability of Crown Zellerbach's Port Angeles Mill, and thus ignore the impact on the economy of the Port Angeles area. For example, NMFS makes the unsupported assertion that "[h]ydropower production at this facility must be considered secondary to the purposes of water quality and fisheries." NMFS' Motion, page 20. Nothing in any of the authorities cited by NMFS supports NMFS' implicit position that the Commission should subordinate economical hydropower development at existing facilities to any other element of the public interest.

In their attempt to minimize the importance of economical hydropower production from the Glines and Elwha projects, NMFS and the Societies also improperly cite the Pacific Northwest Power Planning and Conservation Act, 16 U.S.C. §§ 839 et seq. ("NPA"), for certain legal positions that such act simply does not support. For example, NMFS refers to evaluation of the demand for project power, and suggests that the evaluation must be conducted in conjunction with the Bonneville Power Administration ("BPA") and must take into account Section 4(h)(11) of the NPA. Section 4 of the NPA is very clearly limited by its express terms to the Columbia River Basin, and simply does not apply to an existing project serving an existing local energy demand on the Olympic Peninsula. Similarly, BPA has no role to play in evaluation of the Glines and Elwha projects.

The Societies also cite NPA provisions regarding conservation as the first priority for new energy resources under the Northwest Conservation and Electric Power Plan (the "Regional Plan"), then criticize Crown Zellerbach for not discussing conservation as an alternative to continued operation of the Glines and Elwha projects. Societies' Motion, page 27. This position conflicts with both law and reason. The Regional Plan priorities apply to acquisition of new resources by BPA and are not applicable to the licensing issues in this proceeding. Furthermore, nothing in the Regional Plan or the NPA in any way suggests removing extremely economical existing hydroelectric facilities which presently serve local demand and replacing them with conservation.[3]

III. CONCLUSION

Wherefore, having fully answered the pleadings set forth on pages 1 and 2 hereof (except for motions to intervene which have been answered in prior pleadings), the Applicant, Crown Zellerbach Corporation, respectfully requests that:

1. the above-listed motions and petitions be denied except as the same may relate to consolidation of the Glines Canyon and Elwha projects for licensing, which issue should be decided after development of a full factual record; and

---

[3] Even if the Regional Plan priorities did apply, which they do not, the strong second priority stated by Congress is for renewable resources (which include hydropower). NPA § 4(e)(1).

2. the Commission proceed with licensing and relicensing for the Elwha and Glines Caynon projects in accord with established Commission procedures.

Respectfully submitted,

PERKINS COIE

By______________________________________
William S. Weaver
Priscilla W. Derick
Attorneys for Crown Zellerbach
Corporation

Senator EVANS. Let me ask, then, Mr. Evans, you among others mentioned Glines Canyon. To your knowledge, is the electricity created by both Glines Canyon and Lower Elwha Dam just to one customer? In other words, all the electricity goes to one customer, is that your understanding?

Mr. EVANS. My understanding is that it does go to Port Angeles, but I am not sure after that. It's included in our intervention here from Seattle Audubon Society, which I was just presenting. Maybe some of the other witnesses could speak to that, but that is my understanding.

Senator EVANS. I believe both dams are owned by Crown Zellerbach and the electricity is utilized by the company for its own energy purposes. I believe that's accurate. If anybody knows for sure——

Ms. DYER. Well, I am fairly certain that the power from both the Glines Canyon Dam inside Olympic National Park and the Lower Elwha Dam outside the park both go to Crown Zellerbach.

Senator EVANS. If there were an alternative energy supply provided, and the interests of Crown Zellerbach were no longer connected to those dams particularly, have any of your organizations or any people really looked at what alternatives might then be taken to restore the fish runs?

Removing a dam is not an easy thing. What other alternatives are there or what is practical to do to help restore that fish run and the natural spawning ground, even if the electricity is no longer needed? The dams are still there.

Ms. DYER. Currently it is my understanding that the fish and wildlife service, the department of game, and Olympic National Park are engaged in trying to reestablish the run by trucking juveniles around or smolts around the upper dam and having those run through the turbines. There has been some indication that this is being successful with certain species.

I am sure Mr. Chandler, the superintendent of Olympic National Park who is here, could answer those questions. He did advise me, however, that his biologists advise him—and he could speak to that—that should this dam be removed, it would not interfere with the reestablishment of the various species in that river, some of which are the original genetic stock that were saved elsewhere.

Senator EVANS. We will want to get into further investigation and may require inquiry of a number of agencies to find out what practical alternatives there are.

Let me ask, Mr. Raines, you mentioned the intertidal zones and the water surface of Lake Ozette. I am pretty familiar with the ground around Lake Ozette because I initiated the legislation that was passed in 1976 to protect the remainder of that shoreline.

I guess I thought at the time we also included the lake surface, but apparently we did not. Who now has title over the lake surface?

Mr. RAINES. I assume that the lake surface goes along with the lakeshore, which is owned and managed by the Department of Natural Resources of the State of Washington.

Senator EVANS. Do you know, in your recommendation, is it to be transferred to the National Park Service?

Mr. RAINES. Yes, sir.

Senator Evans. Do you know what the opinion is of the department of natural resources of the State on such a transfer?

Mr. RAINES. I can't speak for Mr. Brian Boyle, but my understanding is that they are not adverse to including it within the park, but are not necessarily supporting outright acquisition by the Park Service of the bed of the lake.

Senator EVANS. Ms. Dyer, let me go on the other part of this which is the intertidal zone. It is your understanding that the actual title of the intertidal zone is now under the State of Washington?

Ms. DYER. Yes, that is correct.

Senator EVANS. And who is managing that currently?

Ms. DYER. Currently, it is under the jurisdiction of the Washington State Park Commission. However, there are three other agencies that have specific jurisidiction: The State department of fisheries has a jurisdiction of determining what is edible fish or edible marine life. The State game department has jurisdiction over all of the nonedible marine life. And then this department of natural resources has a jurisdiction over the marine algae aspect of it

So that there are quite a mixture of State responsibilities within that particular area.

Senator Evans: Is there any current arrangement between the National Park Service and the parks and recreation commission as to the way in which that territory is managed?

Ms. DYER. There is a memorandum of understanding that I believe was 1982. There have beeen some off and on over the years, where the State parks would permit the national park to try to administer it as if it were a national park, giving them authority, if they could, to deputize certain rangers. I understand that that is not the easiest thing in the world to do. The particular rangers that could be deputized can't be out there.

But there are other problems in my opinion where the State parks in the long run, whether it's State of Washington, as I mentioned, the institutional memory of the State and the Federal Government got lost since 1942, that this area was to be managed exactly as a national park.

Senator Evans: Your recommendation is to transfer that intertidal zone to the national park?

Ms. DYER. That is correct. We would have no objection if it were an inholding as far as lands go. I do have some concerns with respect to the offshore islands and the rocks. It needs to be clarified, and we think those should be added to the park; that it would be better to have one agency overall in charge of that.

Senator EVANS. Is it your understanding that all of those offshore rocks are now in one or another wildlife refuge? Are all of those rocks first in Federal ownership?

Ms. DYER. I am not positive. I can't answer that. In looking at the Executive order, it names certain rocks, but of course that was 1907.

Senator EVANS. Yes. There are a lot of rocks out there.

Ms. DYER. But I think it encompasses them all. But we need to verify that.

Senator EVANS. Thank you very much, Mr. Chairman.

I am sure we will be back with written question requests, but that is sufficient.

Senator **Wallop**. Dan, thank you. Let me just suggest that I really appreciate the frustration, as well as the effort, that you have gone through in these exchanges. I have been pushing exchanges for a long, long time around here and I am happy when I see one even come close to success enough that we have to force it.

Mr. **Tam**. Senator, you might be interested. These are the decisions we have been writing for the last 4 years. They have been rather lengthy.

Senator **Wallop**. Well, I appreciate the dimension of the job that you have had and I appreciate the purpose for which you put it. I doubt you would have done it for anything much less valuable than this.

Thank you very much. I thank the panel.

I am going to ask that the witnesses for S. 2287, 2466, 2532, and 2483, if they wish, go have a sandwich or take a little time. I am going to have the witnesses on 1019 and 2182 present their testimony now and then I am going to recess the committee until Senator Evans calls it back at 1:30. So those of you who are on those later bills may wish to have a bite of lunch or just walk around in the nice outdoors.

I will call Dr. Brent Haglund, State director, Wisconsin; Mr. Mark Peterson of the Sigurd Olson Institute, Northland College; and our former colleague, the Honorable Gaylord Nelson, counselor, the Wilderness Society.

Dr. Haglund, why don't you suspend for just a minute until we get a little quiet in the back of the room.

STATEMENT OF DR. BRENT M. HAGLUND, WISCONSIN STATE DIRECTOR, THE NATURE CONSERVANCY, ON S. 1019

Dr. **Haglund**. Thank you, Mr. Chairman. My name is Brent Haglund. I am Wisconsin State director of the Nature Conservancy. We appreciate very much the opportunity to present our views on S. 1019, legislation to add Long Island to the Apostle Islands National Lakeshore in Wisconsin.

We would like to commend Senators William Proxmire and Robert Kasten and Congressman David Obey and other members of the Wisconsin congressional delegation for introducing this legislation.

As you may know, Mr. Chairman, the Nature Conservancy is a national private nonprofit conservation organization, dedicated to the preservation of ecologically significant natural areas and the diversity of life they support.

In the interest of time, I am going to abbreviate my testimony and make sure that it won't be redundant with that of Mr. Mark Peterson nor that of Senator Nelson who will be following me.

The Nature Conservancy presents these summary points in support of S. 1019 to add Long Island to the Apostle Islands National Lakeshore:

No. 1, Long Island is of national signficance for its natural communities and species occurrences. The piping plover is only the most endangered element of natural diversity on Long Island. It is not the only significant species or community there.

No. 2, the National Park Service has a significant management presence in the very immediate area. Headquarters are only 5 miles away. Keep in mind that the National Park Service is administering and managing very well over 20 other islands. The agency has recently demonstrated in Michigan that it can take management actions required to protect piping plovers under the Endangered Species Act. The National Park Service is the appropriate entity to manage Federal lands on Long Island that at this time are completely neglected and gradually being destroyed by inappropriate human use.

No. 3, Long Island is but one part of a nationally significant interacting whole ecosystem. This ecosystem includes the Kakagon Sloughs, owned by the Bad River Band of the Lake Superior Tribe of Chippewa Indians. The Kakagon Sloughs are designed as a national natural landmark. It has been our pleasure to work with the Bad River people, with the Park Service, with the Wisconsin Department of Natural Resources, with the Sigurd Olson Institute and other groups to develop coordinated relationships to protect and manage not just Long Island but also the entire Kakagon Sloughs area, to protect species and communities from piping plovers to wild rice.

No. 4, it is highly appropriate that preservation of natural habitat be the primary goal for management of Long Island. I remember the time when former Secretary of the Interior James Watt was urging the Federal Government to take steps to limit development of fragile barrier islands, because most often that development would happen at great public expense.

This is the only barrier island in the Apostle Islands National Lakeshore. It needs to be protected from inappropriate human use. The addition of Long Island to the Park Service System is most appropriate and it earns our support.

[The prepared statement of Dr. Haglund follows:]

STATEMENT OF BRENT M. HAGLUND, WISCONSIN STATE DIRECTOR THE NATURE CONSERVANCY BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

JUNE 20, 1986

Mr. Chairman, members of the subcommittee, my name is Brent Haglund. I am the Wisconsin State Director for The Nature Conservancy. We appreciate very much the opportunity to present our views on S.B. 1019 (H.R. 2182) legislation to add Long Island to the Apostle Islands National Lakeshore in Wisconsin. We would like to commend Senators William Proxmire and Robert Kasten and Congressman David Obey for introducing this legislation. We would like to thank you, Mr. Chairman, for your willingness to schedule this hearing.

The Nature Conservancy is a national, private, non-profit conservation organization dedicated to the preservation of ecologically significant natural areas and the diversity of life they support. As the foundation of its work, The Nature Conservancy scientifically identifies the most threatened flora, fauna, and natural systems in this country through a series of computerized databases called Heritage programs. These information systems compile data on the existence, characteristics, numbers, condition, status, location, and distribution of rare or declining species and habitats and other uncommon natural features in a state or region. The Heritage program can identify those areas in a given state and/or region that are the most significant ecologically and, therefore, the most important targets for conservation.

Since 1954, the Conservancy has preserved, mostly through fee acquisition, nearly two-and-a-half million acres of environmentally sensitive land. In 1985, The Nature Conservancy acquired through gift or purchase over 121,855 acres of land with a value of nearly $93,200,000 million. We have also assisted the federal government with more than $150 million worth of land acquisition at an estimated savings to the government of $50 million. In Wisconsin, The Nature Conservancy has been active since 1960 and has protected over 21,000 acres at 99 different sites. We have cooperated with governmental agencies, private landowners, and private conservation groups to protect some of the finest natural areas in the State of Wisconsin.

Since my time for testimony is brief, I do not wish to be redundant with what you have heard earlier from Mr. Mark Peterson of the Sigurd Olson Institute, who represents a wide variety of groups supporting S.B. 1019. My summary points in support of S.B. 1019 are as follows:

1. Long Island is of great significance for its natural communities (Great Lakes beach) and species occurrences. The piping plover is only the most endangered element of natural diversity inhabiting Long Island--not the only significant species or community there.

2. The National Park Service has a significant management presence in the very immediate area with headquarters but five miles away. This agency has recently demonstrated in Michigan, at Sleeping Bear Dunes National Lakeshore, that it can take the management actions required to protect piping plovers and other significant natural features. The National Park Service is the appropriate entity to manage Federal lands that at this time are completely neglected and gradually being destroyed by inappropriate human use.

3. Long Island is but one part of a nationally significant interacting whole ecosystem. This ecosystem includes the Kakagon Sloughs--owned by the Bad River Band of the Lake Superior Tribe of Chippewa Indians. The Kakagon Sloughs

are designated as a National Natural Landmark; the Bad River people who own the sloughs are very proud and respectful of the natural values they have sustained in the Kakagon Sloughs and other lands under their jurisdiction. The National Park Service in the Apostle Islands National Lakeshore is quite competent and willing to work to protect the entire ecosystem of which Long Island is a part. This will include of necessity a concern for the impact of management actions outside the National Lakeshore boundary. Other groups and agencies, including the Wisconsin Department of Natural Resources and The Nature Conservancy are willing and eager to develop a coordinated set of relationships to protect and manage the significant species and natural communities in the Long Island-Kakagon Sloughs area, from piping plovers to wildrice beds.

4. It is highly appropriate that preservation of natural habitat be the primary goal for management of Long Island. Careful and limited human use can be accommodated but the shifting sands allows only unstable and easily destroyed natural vegetation.

In closing, Mr. Chairman, let me point out that the preservation of the most critical of the fast-dwindling biological resources of our country is one of the most important needs facing the USA today. We are consuming our natural capital at an alarming rate. Once consumed, this capital cannot be recaptured. The proposed Long Island addition to the Apostle Islands National Lakeshore will be a significant and important addition to this much needed preservation effort. We respectfully urge this subcommittee and Congress to approve S.B. 1019. Thank you.

Senator WALLOP. Thank you, Dr. Haglund.
Mr. Peterson.

STATEMENT OF MARK R. PETERSON, DIRECTOR, SIGURD OLSON ENVIRONMENTAL INSTITUTE, NORTHLAND COLLEGE, ASHLAND, WI, ON S. 1019

Mr. PETERSON. Good afternoon and thank you for allowing me to speak in support of S. 1019.

My name is Mark Peterson. I am director of the Sigurd Olson Environmental Institute of Northland College in Ashland, WI. My home sits on the shores of Lake Superior not far from Long Island.

Let me briefly summarize my testimony. We feel that the national significance of Long Island is as follows. For many years professional groups like the Wisconsin Scientific Preservation Council have urged protection for this island due to its unique geology and natural ecology which is very different from the 20 other islands already included in the National Lakeshore today.

Scientists report that its undeveloped sandy shores make for one of the most important shorebird habitats in the region. In addition, it is also an extremely important staging area for the thousands of birds stopping there during migrations. Several birds which frequent the island are endangered, such as the bald eagle and the peregrine falcon. The piping plover, a summer resident of Long Island is also on the Federal endangered species list and finds this island one of the few remaining areas where it can raise its young.

The piping plover was common in the Great Lakes earlier in this century. Today, biologists estimate that only a dozen pairs are left on Lake Superior. Lakeshore development is largely responsible for the decline. Of the 10,000 miles of shoreline in the Great Lakes, only about 5 miles remain today as suitable habitat for this bird which needs undisturbed sandy shorelines.

Long Island contains about 1 mile of good plover habitat, or about 20 percent of all that is left in the Great Lakes. From an historic point of view, it is hard to imagine a tiny parcel of land having a richer or more varied human history.

In 1660 this was the spot where the first white explorers to the region built a post. Here on Long Island, they began the fur trading which would open up the region to settlement. Missionary work was based here in the 1700's, and in 1852 the first lighthouse in Western Lake Superior warned ships of nearby shoals.

Why the urgency? As has already been alluded, visitors still come to Long Island and in ever-increasing numbers. New marinas continue to be built in nearby areas. This growing and presently uncontrolled access and use of Long Island by visitors threatens to destroy sensitive areas of the island.

Dogs run unleashed, chasing birds off their nests, and trash is left behind from picnics, and campers leave their impact upon the vegetation. Historic Coast Guard buildings and docks on the island are falling into disrepair. Without action soon, these cultural resources will be beyond the point of restoration.

In addition, Federal lands on the island are slated for transfer to other agencies or for sale. Future protection by the new landowners cannot be guaranteed.

As for cost, adding Long Island to the park would only add about 280 acres to a 42,000-acre national lakeshore. Out of this 280 acres, half is already under Federal ownership. Under 13.5 percent is publicly owned by Ashland County. The remaining third is owned by free private parties.

There really are not very many alternatives. We feel the National Park Service will be the best manager of these lands, the national park headquarters, within sight of Long Island, a scant 5 miles away, making management of this island relatively convenient for the National Park Service.

This agency also has the legal authority it may take to develop and enforce rules and regulations necessary to protect the island. Also it has the manpower and knowledge of the islands to be the proper guardian of the land.

Thank you for allowing us to present this.

[The prepared statement of Mr. Peterson follows:]

ENERGY AND NATURAL RESOURCES
SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVE WATER AND RESOURCE CONSERVATION

Regarding S. 1019
Inclusion of Long Island in the
Apostle Islands National Lakeshore

June 20, 1986

In Favor

Mark R. Peterson, Director
Sigurd Olson Environmental Institute
Northland College
Ashland, Wisconsin 54806

(For the Sigurd Olson Environmental Institute and
Chequamegon Audubon Chapter)

Good morning and thank you for allowing me the privilege to speak in support of S. 1019, a bill which would add Long Island to the Apostle Islands National Lakeshore. My name is Mark Peterson. I am Director of the Sigurd Olson Environmental Institute, Northland College, in Ashland, Wisconsin. My home sits on the shores of Lake Superior, not far from Long Island.

In this age of fiscal restraints and federal emphasis on taking care of already established national parks, proposals to add new acreage to the National Park Service certainly will be most carefully considered and scrutinized. Several questions must be answered:

1. Are the lands of national natural and/or cultural significance?
2. What is the urgency for action?
3. Are the costs of acquisition and management modest and reasonable?
4. Instead of federal involvement, could a state agency or other organization satisfactorily manage the land?
5. What is the opposition to the proposal?

If these are the important questions to be answered at this hearing, let me briefly address each one.

NATIONAL SIGNIFICANCE. For many years, professional groups like the Wisconsin Scientific Preservation Council and the Wisconsin Society of Biological Scientists have urged protection for this island due to its unique geology and natural ecology which is very different from the 20 other islands included in the National Lakeshore today.

Scientists report that its undeveloped sandy shores make for one of the most important shorebird habitats in the region. In addition, it is also an extremely important staging area for the thousands of birds stopping on Long Island during spring and fall migrations. A surprising variety of birds--over 35 species of shorebirds and 100 other species--regularly use the island. Several birds which frequent the island are endangered, such as the bald eagle and peregrine falcon. The Piping Plover, a summer resident of Long Island, is also on the federal endangered species list and finds this island one of the few remaining areas where it can raise its young.

The Piping Plover was common in the Great Lakes earlier in this century. Today biologists estimate that only a dozen pairs are left on Lake Superior. Lakeshore development is largely responsible for the decline. Of the 10,000 miles of shoreline in the Great Lakes, only about 5 miles remains today as suitable habitat for this bird which needs undisturbed, sandy shorelines. Long Island contains about 1 mile of good habitat for the plover, or about 20% of all that's left in the Great Lakes. In western Lake Superior, what happens to Long Island may well determine what happens to the Piping Plover.

From a historic point of view, it is hard to imagine a tiny parcel of land having a richer or more varied human history. In 1660, this was the spot where the first white explorers to the region, Radisson and Groseilliers built a post. Here on Long Island they began the fur trade which would be responsible for opening up the region to settlement. Missionary work was based on this island in the 1700's and in 1852 the first lighthouse in western Lake Superior warned ships of nearby shoals. For at least one schooner the lighthouse was for naught and this 3-masted sailing vessel lies beneath Lake Superior just offshore of Long Island--a submerged resource quietly testifying to an earlier era.

URGENCY FOR ACTION. Visitors still come to Long Island today and in ever increasing numbers. New marinas continue to be built in nearby areas. Wisconsin's Northwest Regional Planning Commission predicts boat use in Chequamegon Bay (which surrounds Long Island) will increase which will place additional pressure on Long Island and its fragile ecosystem.

This grcwing and presently uncontrolled access and use of Long Island by day visitors and overnight campers threatens to destroy sensitive areas of the island. Dogs run unleashed chasing birds off their nests, trash is left behind from picnics and all-terrain vehicle tracks and campers leave their inpact upon the vegetation.

Historic coast guard buildings and docks on the island are falling into disrepair. Without action soon, these cultural resources will be beyond the point of restoration.

In addition, federal lands on the island are slated for transfer to other agencies or for sale. Future protection by new land owners cannot be guaranteed.

COSTS. Adding Long Island to the Park would only add about 280 acres to the 42,000 acre National Lakeshore. Of this 280 acres, half is already under federal ownership. Another 13.5% is publicly owned by Ashland County. The remaining third is owned by three private parties. In light of the significant natural and historic significance of this land, federal acquisition is a wise investment for the people of this country and for future generations.

ALTERNATIVES. We've looked at non-federal options to protecting Long Island and have arrived at the conclusion that the National Park Service will be the best manager of these lands. The National Lakeshore Headquarters is within sight of Long Island, a scant 5 miles away, making management of this island relatively convenient for the National Park Service. This agency also has the legal authority it may take to develop and enforce rules and regulations necessary to protect Long Island. It also has the boats, manpower and knowledge of the islands to be the proper guardian of this land. We believe it would work to effectively preserve the unique aspects of this island.

OPPOSITION. There is a high degree of consensus among citizens of Wisconsin that the National Park Service should manage Long Island with a priority of preserving the critical elements on the island and allowing limited public access to the degree that it does not jeopardize rare natural and cultural components of the island. In fact, the only public opposition to the bill in Wisconsin appears to be two of the three Long Island landowners - even though they would be given long-term occupancy of their island lands.

Long Island has been a special place for centuries--for the historic people who have depended upon Long Island, for the wildlife that need this land habitat and for people today who fish off its shores, marvel at its beauty and find solitude here. By passing S. 1019, it will continue to be a special place for centuries to come.

Senator **Wallop**. Thank you.

Senator Nelson, it is nice to see you.

STATEMENT OF HON. GAYLORD NELSON, COUNSELOR, THE WILDERNESS SOCIETY, ON S. 1019

Senator **Nelson**. Let me show you two documents that will orient you to where we are. They are my last copies.

Mr. Chairman, Senator Proxmire and Senator Kasten's bill, Congressman Obey's bill, actually only correct a mistake that was made in an amendment on the House side after the Apostle Islands bill passed the Senate.

Long Island has always been included in all proposals that I made and the Park Service supported for the 9-year period from the time we started dealing with this issue. In 1961, I talked to Secretary Udall when I was Governor of Wisconsin. He agreed to go ahead and make a study to see if these islands were eligible to come in under the concept that was developing of seashores and lakeshores.

In 1965, that document I left up at the desk is a proposal for a National Lakeshore, and that was drafted by the Park Service. It includes Long Island. Each proposal I made over the several years it was pending and before it finally was passed included Long Island.

In 1969, the Apostle Islands Lakeshore bill passed the Senate. It included within it lands of the Bad River Band of the Chippewa Indians and the Red Cliff Band of the Chippewa Indians, based upon discussions I had with the tribal leaders over a period of several years. It passed with these Indian lands within the bill, authorized to be leased, but it would have to be approved by the tribal council and by a vote of all the enrolled members of the tribe, and then rest with each committee in Washington for 90 days. So it was well gauged to protect any rights of the Indians.

In any event, leadership changed. Then after it passed the Senate, the leadership of the tribes asked that mention of their tribe within the bill be dropped. I called Congressman Aspinall and said, the two Indian bands do not want their land involved in any way. Would you strike them from the bill? He said yes, he would. I didn't discover until after the bill had passed that the Long Island had gone with it. How that accident happened, I don't know.

As you can see, looking at the maps, Long Island is a part of that 22-island archipelago. The only island that we left out from the beginning and nobody proposed including was Madeline Island which is the only island with year-round people living on it. It's an old resort island. It has an air strip, it has roads, it has a marina, and the State of Wisconsin owns 2,700 acres.

Only one other island had any cottages on it, and none of them had year-round residents. These islands were thought of as a wilderness-type area.

So actually Senator Proxmire's and Senator Kasten's bill corrects an error that was made in amending it on the House side.

Thank you.

[The prepared statement of Senator Nelson follows:]

THE WILDERNESS SOCIETY

GAYLORD NELSON
COUNSELOR

STATEMENT OF GAYLORD NELSON, COUNSELOR, THE WILDERNESS SOCIETY BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION REGARDING THE ADDITION OF LONG ISLAND TO THE APOSTLE ISLANDS, NATIONAL LAKESHORE (S. 1019), JUNE 20, 1986

Mr. Chairman and members of the Subcommittee:

Thank you for the opportunity to present this statement endorsing the addition of Long Island to the Apostle Islands National Lakeshore.

First, I would like to provide the subcommittee with a brief background history of the Apostle Islands National Lakeshore project.

In 1930 pursuant to a resolution sponsored by Sen. Robert La Follett, Jr. the Congress requested the National Park Service to study the desirability of including the islands as an addition to the National Park System. Because the island timber had been severely overcut the Park Service discouraged such a plan at that time.

In the 1950's the Wisconsin Conservation Commission adopted a statement on the importance of the Apostle Islands as a wilderness area and authorized the Conservation Department to begin land acquisition of Oak, Basswood, and Stockton Islands. The department did acquire most of Stockton Island and portions of Oak and Basswood Islands.

By 1960, some 30 years after the initial National Park Service studies, the islands were once again covered with northern tree species and represented an excellent opportunity to add the area to the National Park System.

In 1961, when I was Governor of Wisconsin I presented to then Secretary of the Interior Stewart Udall a proposal to include the Apostle Islands region in the developing system of national lakeshores and seashores. At that time Cape Cod, Point Reyes, Fire Island, Pictured Rocks, Sleeping Bear Dunes, Indian Dunes and others were being considered by the Congress as new additions to the system. The response by Secretary Udall was favorable and on a number of occasions he visited the area.

In 1963 I visited with President Kennedy and urged him to include the Apostle Islands in his national conservation tour. In September of 1963 the President visited the area and expressed his enthusiastic support for adding the area to the national system.

From 1963 through 1969, I authored legislation to create an Apostle Islands National Lakeshore. In the various bills which were considered by the Committee on Interior and Insular Affairs, Long Island was always included as an integral part of the ~~24~~ 22 island archipelago constituting the major portion of the lakeshore. The National Park Service endorsed inclusion of Long Island in the Lakeshore project. In 1969 the Senate passed S. 621 which provided for the establishment of the Apostle Islands National Lakeshore and included Long Island.

In addition to the archipelago and and with informal approval of tribal spokesmen, the proposal included lands within the Red Cliff Indian Reservation on the Bayfield Peninsula and the Bad River Indian Reservation in the Kakagon-Bad River Sloughs area. After the Senate passed S. 621, which included the reservation land, the Indian people asked that their lands be excluded. At my request the House Committee on Interior and Insular Affairs deleted their land and, unfortunately at the same time, inadvertently removed Long Island, which is not Indian land.

Long Island is an appropriate and important addition to the Lakeshore. The island is a remnant of a much longer sand spit formed through thousands of years of wind and water action. At one time, Long Island was a contiguous part of a much longer and larger sand spit called Chequamegon Point. In the late 1800's a fierce northeast storm breached the spit separating Long Island from Chequamegon Point.

The island is ecologically and geologically significantly different from the other islands in the archipelago. The ~~19~~ 20 other islands in the Lakeshore were originally a part of the Bayfield Peninsula. These islands bacame separated through water action during the period of the continental ice sheet. Today the vegetation consists of northern forest tree and shrub species growing on red claysoils underlain with a sandstone bedrock. In contrast, Long Island and Chequamegon Point have built up over hundreds of years by accretion of sand. The flora and fauna as a consequence are distinctly different than the rest of the islands.

Long Island is a barrier island which, along with Chequamegon Point, shelters Chequamegaon Bay from the turbulent waters of Lake Superior. It is 3.4 miles long and some 280 acres. 175.4 acres are publicly owned (Federal 137.4 acres; Ashland County 38 acres) 105.1 acres privately owned.

Long Island also possesses unique ecological values. Ornithologists have stated that it rivals the best shorebirding area in the state. In the spring and summer, terns -- Forester's, Caspian, Common, Black -- frequent the island. Ducks and geese are common. A few pairs of piping plover, an endangered species, nest on the island and adjacent Chequamegon Point. Over 94 plant species have been identified on the island including three species which are endangered and threatened. For years, the Wisconsin Scientific Areas Preservation Council has recommended that the area be preserved as a part of the State Scientific Areas System. The U. S. Fish and Wildlife Service has also studied the area as a significant wildlife ecosystem.

The designation of Long Island as part of the Apostle Islands National Lakeshore will bring this unique collection of Great Lakes islands under permanent Park Service protection as intended with the passage of the Act by the Senate in 1969.

Senator **Wallop**. I am glad you brought that up. I wondered how it came to be that it was not included in the first place.

How did these vehicles get to the island?

Senator **Nelson**. Vehicles? Well, the only island that has any vehicles on it is the Madeline, the big island that you can see there. And a car ferry goes out to that island.

Senator **Wallop**. One of the statements from someplace mentioned that there were recreational vehicles or something on it.

Mr. **Peterson**. They have had off-train vehicles out there, and it is kind of confusing because right now Long Island is not an island at all. It's attached to Chequamegon Point because of the water levels and the sand action building up, so what people are doing is coming out on Chequamegon Point, riding their RV's along the beaches out to Long Island, which sometimes is in shallow water, separating the point and the island.

Senator **Wallop**. So they are going right out from——

Mr. **Peterson**. From the mainland.

Senator **Wallop**. From the southeast?

Mr. **Peterson**. Yes.

Senator **Nelson**. Well, they could bring an RV down the Bad River through the Kakagon Slough and out to the point. I didn't know they were doing that but I can see that they could. That should be prohibited.

Senator **Wallop**. And the Coast Guard has jurisdiction over 130 acres or something?

Senator **Nelson**. I don't know. I think most of it has been transferred to BLM but the Coast Guard—I think that lighthouse is about 2 or 3 acres.

Senator **Wallop**. What's the BLM——

Senator **Nelson**. I asked the Park Service. I don't have it here. I asked the Park Service, called them the other day.

Senator **Wallop**. Yes, the Park Service statement is the one that is the source of my information on that. Denis Galvin's statement says, "We understand the Coast Guard has jurisdiction over 137 acres of Federal land on the island, and the remainder is privately owned. We have been told that the Coast Guard has some concern regarding a transfer, but we defer to the views of the Coast Guard."

I must say the committee didn't know that, or we probably would have asked them to testify—and we will ask them.

Mr. **Peterson**. I can speak a little bit to that. I think the Coast Guard's concerns are that they want to maintain their access, to maintain the lighthouse no matter what happens, in this bill. So that's really their concern.

Senator **Wallop**. You don't have any objection to that, do you?

Mr. **Peterson**. No. And then the Coast Guard owns about a 1.8-acre parcel around Chequamegon Point light, another three-quarters of an acre surrounding the LaPoint light. There are two lighthouses there. So it's less than about 2½ acres they own, and the rest is BLM. Our concern is what is going to happen to BLM lands east of the Mississippi in the next few years.

Senator **Wallop**. All the private owners all Indian tribes?

Senator **Nelson**. No. There is no Indian-owned land on it. There are 60—37 percent is privately owned, I think, by two families, and

63 percent is owned by the Federal Government and Ashland County, with Ashland County owning 12 or 13 acres.

Senator **Wallop**. And the three families are agreeable to this?

Mr. **Haglund**. No, sir; they are not. One of the families is, and two are not. If I may be permitted a brief anecdote, one of the families that's opposed, which is the major private landowner there is the Sieverton family, and one member of that family named William Sieverton spoke at a congressional hearing in the 1960's in opposition to this.

The main point he raised was the safety concerns about traveling by small boats, as he put it, from 16 to 20 foot boats, to Long Island. About 8 weeks ago, Mr Sieverton died of exposure when his boat overturned in the waters between Long Island and Washburn Marina.

Senator **Wallop**. Well, his objection has been removed, but what about his heirs?

Mr. **Haglund**. The remainder of his family continues to oppose it.

Senator **Wallop**. All right. Well, thank you all very much.

I am going to ask the subcommittee to stand in recess until Senator Evans returns at 1:30. I thank you for your patience.

[Whereupon, at 12:58 p.m., the hearing recessed, to reconvene at 1:30 p.m., the same day.]

AFTERNOON SESSION

Senator **Evans** [presiding]. If we could reopen the hearing, we call first on Mr. Charles Pritchard of Hamilton Township Riverfront Residents, Mays Landing, NJ; Mr. Elmer Ripley of Mays Landing, NJ; Mr. Terrence Moore, executive director, Pinelands Commission, New Lisbon, NJ.

We also bring up at the same time to testify after this Mr. Eric Olson, associate director of conservation, American Rivers Conservation Coalition, and Ms. Helen McGinnis, Mississippi Chapter of the Sierra Club.

Mr. Pritchard, please begin.

STATEMENT OF CHARLES PRITCHARD, HAMILTON TOWNSHIP RIVERFRONT RESIDENTS, MAYS LANDING, NJ, ON S. 2287

Mr. **Pritchard**. Thank you, Mr. Chairman, for the opportunity to testify in support of S. 2287, a bill to study the Great Egg Harbor River for the National and Wild Scenic River System.

I would especially like to thank Congressman Hughes for his efforts to protect and conserve the river, and Senators Bradley and Lautenberg who have helped the bill reach this point.

I am here to testify today on behalf of our Township Committee, the planning board, all the residents of our municipality, which is the largest in total area in the State of New Jersey, and also the rest of the municipalities that run along the river.

I have copies of resolutions from those municipalities to include with the record.

I would like to read into the record a report prepared by our township planner, Peter Karabashian. In the interests of time, I will skip the background information and proceed to the Egg Harbor River and its location within the township.

The Egg Harbor River is approximately 56 miles. Of this area, approximately 13 miles are located in Hamilton Township. Accordingly, it is important to enthusiasts proposing to designate the river as a wild and scenic resource to have the support of the township. This support is strongly submitted.

Preservation of the river as a wild and scenic resource has been the subject of concern to the township for approximately 18 months. At the outset, the township has cooperated with the State of New Jersey in attempting to attain State wild and scenic status.

This study is currently ongoing and will be completed within the next 6 months. Subsequent to that time, hearings will be conducted at the township level to comply with the existing requirements pursuant to that objective. In fact, while this document is being presented in Washington, the portion of the river in the township is being surveyed with respect to land uses, ecosystems, and unique topographic features that make this river unique.

This is being carried out in order to seek qualification as part of the State of New Jersey Wild and Scenic River designation.

The location of the Egg Harbor River within Hamilton Township offers a unique opportunity to compatibly initiate the goals and objectives of the environmentalists as well as the developers. Hamilton Township shares the unique trait of being designated as a growth region within the Pinelands Comprehensive Management Plan.

However, only a small portion of the township is designated for such growth. The remaining portion of the township sustains its rural and wild character. The township, in initiating an aggressive planning policy, has recognized the attributes of its open spaces and river corridors.

The Egg Harbor River represents an important element in the preservation of the wild and scenic characteristics inherent to such a natural resource located so close to the urban environment of Atlantic City.

Of the estimated 56 miles of river, over 13 miles lie within Hamilton Township. Thus, approximately one-fourth of the river exists within the township. Designation of the Egg Harbor River as a wild and scenic resource would buttress the township's planning goal and objectives, as well as those of the Pinelands Commission and the State of New Jersey.

The pristine quality of the river is a unique resource. Its uniqueness stems from the fact that it is so close to a growing urban area. To preserve it for posterity would not only be a gift to the residents of Hamilton Township, the county, and the State of New Jersey, but to the citizens of this country.

To have a river of such quality within the urban corridors of the East is testimony to the environmental efforts which have taken place in the State of New Jersey during the last 20 years.

We need your support at the national level in order to carry out the goals and objectives we have established locally.

That concludes the information I am provided by Mr. Karabashian. I would just like to add that I spent most of my youth in the city of Paterson which was founded by Alexander Hamilton on the basis of the water power provided by the Passaic River. Anyone familiar with that area knows what years of continual abuse and lack of concern have done to that great Passaic River.

I was fortunate that when I relocated, I happened to land less than 100 yards from the scenic Egg Harbor River. I grew up literally watching the Passaic River die. I intend to do whatever is in my power to help maintain the integrity of the Great Egg Harbor River. With your help, I am certain we can assure that future generations will have the opportunity to enjoy the qualities of this great waterway.

Thank you, Mr. Chairman, for the opportunity to testify on behalf of this bill.

Also, with your permission, if I could also include the testimony of Warren Fox who, as Senator Bradley acknowledged earlier, is the driving force behind this effort.

Senator **Evans**: That will be included in the record.

Mr. **Pritchard**. Thank you.

[The prepared statements of Mr. Pritchard and Mr. Fox follow:]

Township of Hamilton
County of Atlantic

Mayor
RAYMOND A. TOWNSEND
PHONE 625-0623
Deputy Mayor
JOHN J. PERCY, III, CTA, CMFO
PHONE 965-3500
Township Committee Members
C. SALVATORE D'ALESSIO, JR.
PHONE 625-1878
FRANK GRIECO, SR.
PHONE 625-0524
CHARLES PRITCHARD
PHONE 625-9212

Township Clerk
JOAN I. ANDERSON, RMC
PHONE 625-1511
PHONE 625-1512
Township Solicitor
MARK BIEL
PHONE 344-1173
Township Engineer
JOHN R. WALKER
PHONE 388-1927

Second and Cape May Avenues
Mays Landing, New Jersey 08330

TESTIMONY OF CHARLES PRITCHARD

TOWNSHIP COMMITTEEMAN, TOWNSHIP OF HAMILTON, ATLANTIC COUNTY

ON

S. 2287, THE GREAT EGG HARBOR RIVER WILD AND SCENIC STUDY BILL

before

THE SENABE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVE WATER AND RESOURCE CONSERVATION

FRIDAY, JUNE 20, 1986

New Jersey's Largest Municipality

Thank you, Mr. Chairman, for the opportunity to testify in support of S. 2287, a bill to study the Great Egg Harbor River for the National Wild and Scenic River System. I would especially like to thank Congressman Hughes for his efforts to protect and conserve the river; and Senators Bradley and Lautenberg who have helped the bill reach this point.

May name is Charles Pritchard and I am a Committeeman in the Township of Hamilton. I am here to testify today on behalf of our Township Committee, our Planning Board and all the residents of our municipality which is the largest in total area in the State of New Jersey.

I would like to read into the record a report prepared by our Township Planner, Peter Karabashian.

EGG HARBOR RIVER WATERSHED
IN HAMILTON TOWNSHIP

Table of Contents

Page

Background Information 1

The Egg Harbor River and Its Location Within the Township 3

Conclusion 4

EGG HARBOR RIVER WATERSHED

IN HAMILTON TOWNSHIP

Background Information

Hamilton Township is a unique township within the Southern New Jersey tier of communities. Its uniqueness stems from several facts:

1. It is the largest township in the State of New Jersey, having 75,000 acres of land located minutes from Atlantic City.

2. Of the 75,000 acres of land-mass constituting the Township, approximately 11,000 have been set aside as part of the Pinelands Regional Growth Area. Approximately 3,700 acres of the Regional Growth District are designated as being developable. This area, at build-out, will accommodate somewhere between 11,000 and 7,000 dwelling units, which, at 2.6 persons per dwelling unit, will generate a potential population of 28,600 to 94,200 persons.

3. The Township has been designated as the site for a regional mall of 1,300,000 square feet, which will service a good portion of the Southern New Jersey area. With this comes the inevitable satellite commercial development.

4. A portion of the Township's boundary is encompassed by the FAATC, Federal Aviation Administration Technical Center, which has the potential of stimulating a high tech industry within the immediate future.

5. The Township is located just 23 minutes via Expressway to the heart of Atlantic City and its casino environment.

As a result of the Township's unique attributes, the presence of a pristine river flowing through its center, is a resource not to be taken lightly. For the most part, the Township has a distinctly rural character and flavor. Its woodlands and rivers team with an abundance of wildlife which, in contrast to many New Jersey communities, has been substantially recognized in the Township's planning process. In fact, the Township can boast a unique trait which clearly reveals compatible co-existence between the objectives of the environmentalists and developers.

EGG HARBOR RIVER WATERSHED IN HAMILTON TOWNSHIP

Background Information (Cont'd)

The Township Master Plan and Zoning Documents have been carefully prepared to safeguard and maintain its critical environmental balance. In contrast to the areas designated for development, the corridors of the river have been set aside for extremely low density growth.

To this extent the Egg Harbor River Watershed plays an important role in maintaining the environmental and planning objectives of the Township. It offers not only pristine wilderness areas along its corridors but also is a tribute to the positive environmental concerns advocated by the Township. By maintaining its purity, the Township has demonstrated the implementation of sound environmental policies at the edge of developing urban areas.

In years to come, the preservation of the Egg Harbor River, in its pristine state, will clearly reflect the quality of growth that invariably will be imposed upon the Township as part of the Pinelands Regional Growth scenario. Therefore, it is important to bring to bear the legislative controls necessary to understand the quality of the river as it flows from its source in Camden County to the ocean.

EGG HARBOR RIVER WATERSHED
IN HAMILTON TOWNSHIP

The Egg Harbor River and Its Location Within the Township

The length of the Egg Harbor River is approximately 56 miles. Of this area, approximately 13 miles are located in Hamilton Township. Accordingly, it is important to enthusiasts proposing to designate the river as a Wild and Scenic Resource to have the support of the Township. This support is strongly submitted. Preservation of the river as a Wild and Scenic Resource has been the subject of concern to the Township for approximately 18 months. At the outset, the Township has cooperated with the State of New Jersey in attempting to obtain State Wild and Scenic Status. This study is currently ongoing and will be completed within the next six months. Subsequent to that time, hearings will be conducted at the Township level to comply with the existing requirements pursuant to that objective. In fact, while this document is being presented in Washington, D.C., the portion of the river in the Township is being surveyed with respect to land uses, eco-systems and unique topographic features that make this river unique. This is being carried out in order to seek qualification as part of the State of New Jersey Wild and Scenic River designation.

EGG HARBOR RIVER WATERSHED IN HAMILTON TOWNSHIP

Conclusion

The location of the Egg Harbor River within Hamilton Township offers a unique opportunity to compatibly initiate the goals and objectives of the environmentalists as well as the developers.

Hamilton Township shares the unique trait of being designated as a Growth Region within the Pinelands Comprehensive Management Plan. However, only a small partion of the Township is designated for such growth. The remaining portion of the Township sustains its rural and wild character.

The Township, in in initiating an aggressive planning policy has recognized the attributes of its open spaces and river corridors. The Egg Harbor River represents an important element in the preservation of the wild and scenic characteristics inherent to such a natural resource located so close to the urban environment of Atlantic City.

Of the estimated 56 miles of river, over 13 miles lie within Hamilton Township. Thus, approximately one-fourth of the river exists within the Township. Designation of the Egg Harbor River as Wild and Scenic Resource would buttress the Township's planning goals and objectives as well as those of the Pinelands Commission in the State of New Jersey.

The pristine quality of the river is a unique resorce. Its uniqueness stems from the fact that it is so close to a growing urban area. To preserve it for posterity would not only be a gift to the residents of Hamilton Township, the county and the State of New Jersey, but to the citizens of this country. To have a river of such quality within the urban corridors of the East is testimony to the environmental efforts which have taken place in the State of New Jersey during the last 20 years. We need your support at a national level in order to carry out the goals and objectives we have established locally.

57/EHR4

I would just like to add that I spent most of my youth in the City of Paterson which was founded by Alexander Hamilton on the basis of the water power provided by the Passaic River. Anyone familiar with that area knows what years of continual abuse and lack of concern have done to the great Passaic River. I was fortunate that when I relocated, I happened to land less than 100 yards from the scenic Egg Harbor River.

I grew up literally watching the Passaic River die. I intend to do whatever is in my power to help maintain the integrity of the Great Egg Harbor River. With your help, I'm certain we can assure that future generations will have the opportunity to enjoy the qualities of this great waterway.

Thank you, Mr. Chairman, for the opportunity to testify on behalf of this bill.

RESOLUTION NO. 2587 - 1985

WHEREAS, The Township of Buena Vista has long recognized that Great Egg Harbor River provides our residents with many outstanding fishing, boating, sight-seeing, economic, cultural and natural resource and other opportunities.

WHEREAS, over the past months, local concern about this important river has increased due to a number of factors including water quality, proposed land use developments; and

WHEREAS, The National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Great Egg Harbor River which will rely on the use of existing government authorities and voluntary private landowner actions.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Township of Buena Vista, Atlantic County, hereby urges members of Congress to enact legislation to designate the Great Egg Harbor River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that our interest is to protect the river and its important adjacent land areas for future generations through the development of a locally prepared and controlled river management plan.

BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Mayor of the Governing Body is hereby authorized to appoint a representative to serve on a Great Egg Harbor River Advisory Committee and to execute an agreement with the other river townships on behalf of the Township of Buena Vista's endorsement of the undertaking of such a study.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that said study shall be wholly without any costs or expenses to the Township of Buena Vista.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Congressman William Hughes, Senator Frank Lautenberg, Senator William Bradley and Congressman Florio.

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF BUENA VISTA

BY: John Krokos
JOHN KROKOS - MAYOR

DATED: NOVEMBER 25, 1985

ADOPTED: NOVEMBER 25, 1985

ATTEST:

BY:
CHARLES C. BYLONE - CLERK

Motioned by: Seconded by:

RESOLUTION # 53-85

WHEREAS, The City of Corbin City has long recognized that the Tuckahoe River provides our residents with many outstanding fishing, boating, sight-seeing, economic, cultural and natural resource and other opportunities.

WHEREAS, over the past months, local concern about this important river has increased due to a number of factors including water quality, proposed land use developements; and

WHEREAS, The National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Tuckahoe River which will rely on the use of existing government authorities and voluntary private landowner actions.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED that the City of Corbin City, County of Atlantic, hereby urges members of Congress to enact legislation to designate the Tuckahoe River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that our intent is to protect the river and its important adjacent land areas for future generations through the developement of a locally prepared and controlled river management plan.

BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Mayor of the Governing Body is hereby authorized to appoint a representative to serve on a Great Egg Harbor River Advisory Committee and to execute an agreement with the other river townships on behalf of the City of Corbin City's endorsement of the undertaking of such a study.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that said study shall be wholly without any cost or expenses to the City of Corbin City.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Congressman William Hughes, Senator Frank Lautenberg, Senator William Bradley and Senator James J. Florio.

Walter W. Whetstone

WALTER W. WHETSTONE

John P Gordon

JOHN P. GORDON

EDITH WEAVER

RESOLUTION

No. 156 of 1985

WHEREAS, the Great Egg Harbor River, flowing through Somers Point is one of the largest rivers in the State of New Jersey, traversing much virgin woodland; and

WHEREAS, the Great Egg Harbor River provides residents of Somers Point and surrounding communities with many outstanding fishing, boating, sightseeing, economic, cultural and natural resourşes and other opportunities; and

WHEREAS, the Great Egg Harbor River has played a significant roll in the history of South Jersey and supplies water for many local lakes and recreational facilities; and

WHEREAS, it is necessary, for the benefit of the residents of Somers Point and surrounding areas and future generations, that all attempts be made to protect the Great Egg Harbor River from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can assist local government in preparing a long term protection plan for the Great Egg Harbor River.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that this City Council supports all actions that will allow the Great Egg Harbor River to be designated for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman Wiliam Hughs, United States Senator William Bradley, United States Senator Frank Lautenberg and United States Congressman James Florio.

Proposed by Councilman Risley.

I, MARY C. LENNIE, City Clerk of the City of Somers Point, New Jersey, hereby certify that the foregoing is a true copy of a certain Resolution, duly adopted by the Common Council of said City, at a regular meeting held the 21 day of November , 1985 .

In Witness Whereof, I have hereunto set my hand and seal of my Office this 22 day of November , 19 85.

Mary C. Lennie

Mary C. Lennie, City Clerk

Motioned by; Mr. Holt

Seconded by; Mr. Battistini

RESOLUTION # 8-6-85

WHEREAS, The City of Estell Manor has long recognized that Great Egg Harbor River provides our residents with many outstanding fishing, boating, sight-seeing, economic, cultural and natural resource and other opportunities.

WHEREAS, over the past months, local concern about this important river has increased due to a number of factors including water quality, proposed land use developements;and

WHEREAS, The National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Great Egg Harbor River which will rely on the use of existing government authorities and voluntary private landowner actions.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED that the City of Estell Manor, Atlantic County, hereby urges members of Congress to enact legislation to designate the Great Egg Harbor River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that our intent is to protect the river and its important adjacent land areas for future generations through the developement of a locally prepared and controlled river management plan.

BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Mayor of the Governing Body is hereby authorized to appoint a representative to serve on a Great Egg Harbor River Advisory Committee and to execute an agreement with the other river townships on behalf of the township of the City of Estell Manor's endorsement of the undertaking of such a study.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that said study shall be wholly without any costs or expenses to the City of Estell Manor.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Congressman William Hughes, Senator Frank Lautenberg ,Senator William Bradley and Senator Florio.

Thomas D. Tummon YES
THOMAS D. TUMMON, MAYOR

Francis E. Cuneo YES
FRANCIS E. CUNEO

John Battistini Jr. YES
JOHN BATTISTINI,JR.

Edward H Christiansen YES
EDWARD H. CHRISTIANSEN,SR.

Monty Holt YES
ALMONTE HOLT

EGG HARBOR TOWNSHIP

RESOLUTION # 221

1985

WHEREAS, Egg Harbor Township has long recognized that the Great Egg Harbor River provides our residents with many outstanding fishing, boating, sight-seeing, economic, cultural, and natural resources and other opportunities, and

WHEREAS, over the past months, local concern about this important river has increased due to a number of factors including water quality, proposed land use developments, and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Great Egg Harbor River which will rely on the use of existing government authorities and voluntary private landowner actions;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of Egg Harbor Township, Atlantic County, New Jersey that we hereby urge members of Congress to enact legislation to designate the Great Egg Harbor River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED, that our intent is to protect the river and its important adjacent land areas for future generations through the development of a locally prepared and controlled river management plan.

BE IT FURTHER RESOLVED, that the Mayor of Egg Harbor Township is hereby authorized to appoint a representative to serve on a Great Egg Harbor River Advisory Committee and to execute an agreement with the other river communities on behalf of the Township of Egg Harbor's endorsement of the undertaking of such a study.

BE IT FURTHER RESOLVED, that said study shall be wholly without any costs or expenses to the Township of Egg Harbor.

AND BE IT FURTHER RESOLVED, that the Township Clerk forward certified copies of this Resolution to the United States Department of the Interior, Congressman Hughes, Senator Bradley, Senator Lautenberg, Congressman Florio, the Atlantic County Executive, Atlantic County Freeholders, the Atlantic County Parks and Recreation Advisory Committee and the 22 municipalities bordering the Great Egg Harbor River.

ARTHUR L. FOSTER, MAYOR

DATED: July 24, 1985

ATTEST:

PATRICIA INDRIERI, RMC
TOWNSHIP CLERK

	AYE	NAY	ABSENT
Maria Bohle	X		
John Carman	X		
Louis Cullen	X		
Arthur Foster	X		
Daniel Garshman			X

CERTIFIED AS A TRUE COPY OF A RESOLUTION
ADOPTED BY TOWNSHIP COMMITTEE OF EGG HARBOR
TOWNSHIP, N.J. AT A MEETING ON 7-24-85
ATTEST Betty Ann Rieser Deputy
TOWNSHIP CLERK

WEYMOUTH TWP, New Jersey

Resolution No. 1

Approved as to Form and Legality

TWP. COUNSEL

Submitted By:

Vice Chairman

COUNCIL MEMBER

RE: GREAT EGG HARBOR RIVER

RESOLUTION

WHEREAS, the Great Egg Harbor River, AND ITS TRIBUTARIES,, is one of the largest rivers in the State of New Jersey, traversing much virgin woodland; and

WHEREAS, the Great Egg Harbor River provides residents of Atlantic County and surrounding counties with many outstanding fishing, boating, sightseeing, economic, cultural and natural resourses and other opportunities; and

WHEREAS, the Great Egg Harbor River has played a significant role in the history of South Jersey and supplies water for many local lakes and recreational facilities; and

WHEREAS, it is necessary, for the benefit of the residents of Weymouth Twp. and surrounding areas and future generations, that all attempts be made to protect the Great Egg Harbor River from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can assist local government in preparing a long-term protection plan for the Great Egg Harbor River.

Resolution No.

NOW, THEREFORE, BE IT RESOLVED BY COUNCIL OF Weymouth Twp, IN ATLANTIC COUNTY, that this COUNCIL supports all actions that will allow the Great Egg Harbor River to be designated for study under the provisions of the National Wild and Scenic Rivers Act.

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman William Hughs, United States Senator William Bradley, United States Senator Frank Lautenberg and United States Congressman James Florio.

ADOPTED: 12/4 1985

I, [illegible] Clerk of Weymouth Township, , N.J., do hereby certify that the foregoing is a correct copy of a resolution adopted by the council at a meeting duly held on the Fourth day of December 19 85

Signed, [illegible]
Township CLERK

U.S. SENATORS:
Sen. Frank Lautenberg
Sen. William Bradley
Senate Office Building
Washington, D.C. 20510

U.S. REPRESENTATIVES:
James J. Florio
First District
1 Colby Avenue
Suite 1617
Stratford, N.J. 08084

William J. Hughes
Second District
2307 New Road
Northfield, N.J. 08225

STATE SENATORS:
James R. Hurley
First District
821 Columbia Ave.
P.O. Box 809
Millville, N.J. 08332

William L. Gormley
Second District
29 North Shore Rd.
Absecon, N.J. 08201

National Park Service, Dept of Interior
600 Arch St., Rm 9428
Phila., Pa. 19106
Atten: Joan Batory

Clerk of the Board

County of Atlantic, New Jersey

Resolution No. 527

Approved as to Form and Legality

County Counsel VINCENT J. SGRO

Submitted By:

Freeholder John Mahoney

RE: GREAT EGG HARBOR RIVER

RESOLUTION

WHEREAS, the Great Egg Harbor River, flowing through Atlantic County, is one of the largest rivers in the State of New Jersey, traversing much virgin woodland; and

WHEREAS, the Great Egg Harbor River provides residents of Atlantic County and surrounding counties with many outstanding fishing, boating, sightseeing, economic, cultural and natural resourses and other opportunities; and

WHEREAS, the Great Egg Harbor River has played a significant roll in the history of South Jersey and supplies water for many local lakes and recreational facilities; and

WHEREAS, it is necessary, for the benefit of the residents of Atlantic County and surrounding areas and future generations, that all attempts be made to protect the Great Egg Harbor River from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can assist local government in preparing a long term protection plan for the Great Egg Harbor River.

I, Thomas R. Somers, Clerk of the Board Chosen Freeholders of the County of Atlantic, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Board at a meeting duly held on the 12th day of November 1985

Signed. Thomas R. Somers
Clerk of the Board

RECORD OF VOTE

FREEHOLDER	AYE	NAY	N.V.	A.B.	RES.	SEC.	FREEHOLDER	AYE	NAY	N.V.	A.B.	RES.	SEC.
Bryant				✓			McLernon				✓		
[illegible]	✓						Monarch	✓					
[illegible]	✓					✓	Nickles	✓					
Gaffney	✓						Sobin	✓					
Mahoney	✓				✓								

A.B. = Absent N.V. = Not Voting

Resolution No.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF ATLANTIC COUNTY, that this Board supports all actions that will allow the Great Egg Harbor River to be designated for study under the provisions of the National Wild and Scenic Rivers Act.

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman William Hughs, United States Senator William Bradley, United States Senator Frank Lautenberg and United States Congressman James Florio.

ADOPTED: November 12, 1985

COUNTY OF ATLANTIC:

Thomas R. James

Clerk of the Board

Atlantic Audubon Society
P. O. Box 63, Absecon, N. J. 08201

RECEIVED
JAN 23 1986

January 18, 1986

Ms. Joan Batory
National Park Service
600 Arch Street, Room 9428
Philadelphia, PA 19106

Dear Ms. Batory,

The Atlantic Audubon Society supports the concept of Wild and Scenic River designation for the Great Egg Harbor River and its tributaries. This beautiful and relatively wild river in such a heavily populated eastern state as New Jersey is well known far and wide for its boating, fishing and river recreation. In addition, it has great historic value, particularly to us, as the location of one of John James Audubon's journeys and the locale for some of his paintings.

We wish to see the river preserved as a wild and scenic river for this and future generationsof residents and visitors in this area. We therefore urge that the appropriate steps be taken to achieve for the Great Egg Harbor River the designation of Wild and Scenic.

If there is anything we can do to further such designation, please feel free to call on us.

Sincerely,

Edgar C. Bristow, M.D.
President

"AUDUBON MEANS LIFE"

Sierra Club
NEW JERSEY CHAPTER
360 Nassau Street, Princeton, N.J. 08540
(609) 924-3141

December 18, 1985

J. Glenn Eugster, Chief
Division of Park and Resource Planning
National Park Service
600 Arch St., Room 9428
Phila., Pa., 19106

RECEIVED
DEC 23 1985

Dear Mr. Eugster:

By this letter the New Jersey Chapter, Sierra Club expresses its support of "Wild and Scenic River" designation for the Great Egg Harbor River.

The motion was approved by unanimous vote at the December 16th, 1985 Executive Committee meeting at Princeton University.

Yours truly,

Roger G. Stewart

Roger G. Stewart
N.J. Chapter Secretary

CC: Ian Walker, Chair
Gary Patterson
Warren E. Fox
Sandy Redfield

"TO EXPLORE, ENJOY AND PRESERVE THE NATION'S FORESTS, WATERS, WILDLIFE AND WILDERNESS . . ."

TOWNSHIP OF FRANKLIN

RESOLUTION NO: 154-85

RESOLUTION SUPPORTING LEGISLATION AS PROVIDED IN THE WILD AND SCENIC RIVERS ACT

WHEREAS, the Congress of the United States of America is considering the passage of legislation which would require the Secretary of the Interior to conduct studies to determine whether to designate the Great Egg Harbor River as part of the National Wild and Scenic River system; and

WHEREAS, such inclusion into the system would create a means to preserve the Egg Harbor River's scenic, recreation and aesthetic features; and

WHEREAS, the governing body of the Township of Franklin believes that such action by the Congress of the United States of America and the Secretary of the Interior would help to preserve the Great Egg Harbor River's scenic, recreation and aesthetic features and would also benefit the community of the Township of Franklin.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Franklin that the proposed legislation is hereby formally supported and that copies of this Resolution shall be forwarded by George G. Fabrizio, Clerk of the Township of Franklin to Congressman William J. Hughes, Congressman James J. Florio, Senator William Bradley and Senator Frank

HOFFMAN,
DiMUZIO & HOFFMAN
25 HUNTER STREET
WOODBURY, N.J. 08096

R:31-86

RESOLUTION TO PROTECT THE GREAT EGG HARBOR RIVER AND ITS' ADJACENT LAND AREAS.

WHEREAS, the Township of Monroe has long recognized that the Great Egg Harbor River provides many people with many outstanding fishing, boating, sight-seeing, economic, cultural and natural resources, and other opportunities; and

WHEREAS, over the past months local concern about this important river has increased due to a number of factors including water quality, proposed land use developments; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Great Egg Harbor River which will rely on the use of existing government authorities and voluntary private landowner actions.

NOW, THEREFORE, BE IT RESOLVED, AND IT IS HEREBY RESOLVED that the Township of Monroe, Gloucester County, hereby urges members of Congress to enact legislation to designate the Great Egg Harbor River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED, AND IT IS HEREBY RESOLVED that the intent is to protect the river and its' important adjacent land areas for future generations through the development of a locally prepared and controlled river management plan.

BE IT FURTHER RESOLVED, AND IT IS HEREBY RESOLVED that said study shall be wholly without any cost or expense to the Township of Monroe.

TOWNSHIP OF MONROE, GLOUCESTER CTY.

Robert McDonald
ROBERT McDONALD, PRES. of COUNCIL

ATTEST:

Margaret T. Hassan
MARGARET T. HASSAN, DEP. CLERK

GREAT EGG HARBOR RIVER RESOLUTION

WHEREAS, the Great Egg Harbor River, and its tributaries, is one of the largest rivers in the State of New Jersey, traversing much virgin woodland; and,

WHEREAS, the Great Egg Harbor River provides residents of Camden County and other counties with many outstanding fishing, boating, sightseeing, economic, cultural and natural resourses and other opportunities; and,

WHEREAS, the Great Egg Harbor River has played a significant role in the history of South Jersey and supplies water for many local lakes and recreational facilities; and,

WHEREAS, it is necessary, for the benefit of the residents of Winslow Township and surrounding areas and future generations that all attempts be made to protect the Great Egg Harbor River from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can assist local government in preparing a long term protection plan for the Great Egg Harbor River,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Committee of Winslow Township in Camden County, that this Governing Body supports all actions that will allow the Great Egg Harbor River to be designated for study under the provisions of the National Wild and Scenic Rivers Act.

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman William Hughes, United States Senator William Bradley, United States Senator Frank Lautenberg and United States Congressman James Florio.

Adopted: January 22, 1986

Ronald C. Nunnenkamp, RMC
Township Clerk/Administrator
Township of Winslow

Mays Landing, NJ
July 1, 1985

Mr. Pritchard moved, seconded by Mr. Percy, that the following resolution be and is hereby adopted

RESOLUTION

WHEREAS, the **GREAT EGG HARBOR RIVER**, flowing through Atlantic County, is one of the largest rivers in the State of New Jersey, traversing much virgin woodland; and

WHEREAS, the **GREAT EGG HARBOR RIVER** provides residents of Atlantic County and surrounding counties with many outstanding fishing, boating, sightseeing, economic cultural and natural resourses and other opportunities; and

WHEREAS, the **GREAT EGG HARBOR RIVER** has played a significant roll in the history of South Jersey and supplies water for many local lakes and recreational facilities; and

WHEREAS, it is necessary, for the benefit of the residents of Atlantic County and surrounding areas and future generations, that all attempts be made to protect the **GREAT EGG HARBOR RIVER** from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act can assist local government in preparing a long term protection plan for the GREAT EGG HARBOR RIVER,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton, County of Atlantic, that they support all actions that will allow the **GREAT EGG HARBOR RIVER** to be designated afor study under the provisions of the **NATIONAL WILD AND SCENIC RIVERS ACT**.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman William J. Hughes, United States Senators William Bradley and Frank Lautenberg and United States Congressman James Florio.

SAID RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

I, HEREBY CERTIFY THAT THE FOREGOING EXTRA
OF MINUTES OF A MEETING OF THE TOWNSHIP CO
MITTEE OF THE TOWNSHIP OF HAMILTON,
IN THE COUNTY OF ATLANTIC AND STATE OF NE
JERSEY HAS BEEN COMPARED BY ME WITH THE ORIGI
AND ARE A TRUE COPY OF SAID ORIGINAL MINUT
FOR THE MEETING HELD ON THE DATE SET FORT
IN WITNESS WHEREOF, I HAVE HEREUNTO SET
HAND THIS DATE.

DATE 6-10-86

Joan I. Anderson

JOAN I. ANDERSON
TOWNSHIP CLERK

Testamony of

Warren E. Fox
Chairman

Atlantic County's Parks and Recreation
Advisory Commission

in favor of Bill S 2287, providing for a
Study of the
Great Egg Harbor River
as WILD, SCENIC and RECREATIONAL

before the Senate Sub-committee on
Public Lands, Reserve Water and Resource Conservation
Senator Malcolm Wallop
Chairman

20 June 1986

The Great Egg Harbor River is a nominated National Wild and Scenic River and one of two major rivers in the New Jersey Pinelands National Reserve. The United Nations designated the Pinelands National Reserve as one of the world's eleven international biospheres, unique one-of-a-kind ecosystems which merit special scientific recognition and opportunity for advanced studies.

Nearly 40% of the Pinelands are wetlands, being surface manifestations of the vast 17 trillion gallon Cohansey aquifer, one of the largest underground supplies of freshwater known to exist throughout the world. The Great Egg Harbor River issues directly from this aquifer and flows through four counties and twelve minicipalities before it empties into the Atlantic Ocean near the southernmost tip of New Jersey.

The watershed is largely undeveloped. Water quality varies although almost the entire length meets surface water quality standards for recreational use including swimming. Many tributaries meet potable drinking water standards. Numerous species of rare, endangered or threatened animals, plants and fish indigenous to the exotic Pinelands ecosystem are common throughout the watershed. Recreational uses include hunting, fishing, trapping, boating, swimming, shellfishing and other outdoor activities.

A segment of the Great Egg Harbor River is included in the 1978 inventory of potential National Wild and Scenic Rivers. The Pinelands Comprehensive Management Plan identifies the lower Great Egg Harbor River as one of the Pinelands highest ranking ecologically critical areas and proposes the acquisition of 6600 acres in the watershed to protect its valuable natural resources. The Pinelands Comprehensive Management Plan recommends that the New Jersey Department of Environmental Protection proceed to study the Great Egg Harbor River for inclusion into the State Wild and Scenic River System within five years of the Management Plan's adoption.

The Pinelands National Reserve's Comprehensive Management Plan protects only parts of the watershed. A significant threat to the river exists because its headwaters are not in the Pinelands National Reserve and neither are portions of several of its main tributaries. The Pinelands National Reserve boundry includes only one side of the river for several miles, leaving the riverbed and the western bank unprotected by Pinelands legislation and planning. The impact of development on vital unprotected river segments could degrade the remainder of the protected river areas. A study of the entire river to determine its suitability for inclusion in the National Wild and Scenic Rivers System would identify potential developmental impacts basin-wide for local governments both within and adjacent to the Pinelands National Reserve.

The Great Egg Harbor River is approximately fifty-six miles in length, has forty-one tributary streams totaling some 250 miles of flowing water and twenty-five lakes and ponds that provide some degree of scenic-recreational values. A large segment of the river is truly wild. nearly impenetrable forest wetland. Roughly fifteen miles are scenic-recreational and pleasantly canoeable. A fourteen mile reach is inland tidal and eight miles is estuarial opening to the sea. These support all manner of recreational activities.

Recreation overload has stressed other Pinelands rivers and local residents want to provide appropriate recreational uses without sacrificing river quality to do it. The Pinelands Commission recommended in the Comprehensive Management Plan that each municipality adopt standards which require the development of recreational facilities in association with major residential, commercial and industrial development which is permitted in the Great Egg Harbor watershed. The Comprehensive Management Plan states that in evaluating these studies, the Pinelands Commission shall place particular importance on the degree to which recreational use of a river is controlled for environmental and user-satisfaction reasons. This includes access points and provision for rest-stop areas along the river.

While the Comprehensive Management Plan sets minimum environmental standards for local zoning ordinances, it does not address specifically how local governments can address river related development on a basin-wide basis. A study of the entire river would promote cohesive local government cooperative planning decisions by presenting refinements to local zoning ordinances designating specific river uses and areas which minicipalities could adopt.

The Great Egg Harbor River is affected by point and non-point contamination. Residents and local officials want to identify pollution sources and work at the local level to maintain a high standard of water quality throughout the watershed. They know that this can be done effectively only through a joint effort bringing together local, state and federal interests. A National Wild and Scenic River Study to asses the river's resources and to promote communication and appreciation of the Great Egg Harbor's resources along the length of the river would give the Pinelands Commission, the State of New Jersey and federal agencies working with local representatives the opportunity to plan as a single body for one of the world's most notable rivers.

Many Pinelands local officials and residents resented what they viewed as usurpation of their home rule right when Congressional and State legislation created the Pinelands Commission to regulate land use in their areas. Yet most of these municipalities affected by the river have requested the Great Egg Harbor River Study, including assistance from the U. S. Department of the Interior, the agency designated by law to oversee the Pinelands National Reserve. Pinelands planning has convinced local officials and residents of the benefits associated with wise use of natural resources. Their requests for assistance to further protect one of the key natural features of the Pinelands National Reserve deserve your attention and approval.

Thank you for the opportunity to testify on their behalf.

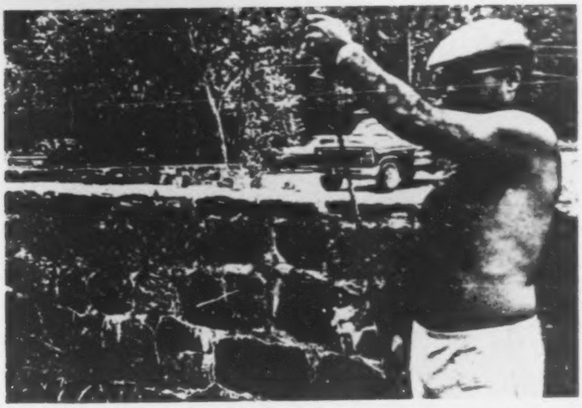
Sincerely,

Warren E. Fox

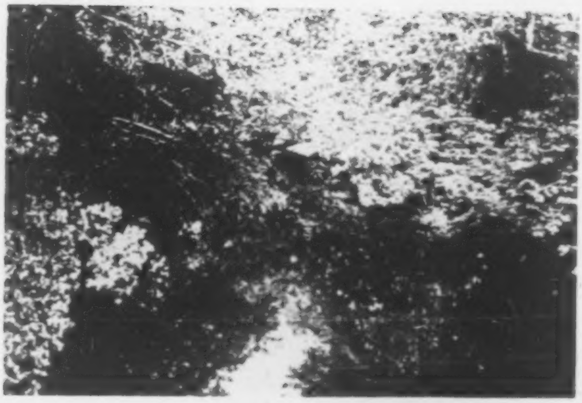
Warren E. Fox

The Great Egg Harbor River........

Is fed by a one acre spring-fed pond in Berlin Borough's Camden County Park, where this stream meanders through recreational lands, an airport and through a forested corridor of agricultural lands.....



to New Brooklyn Lake where this fisherman finds a day's relaxation. Its not much to eat but refreshes mind and body.



Emerging from practically impenetrable forest wetlands and entering Atlantic County where considerable parkland is being acquired along the river......

to provide a Wilderness experience in canoeable waters. A 22 acre site straddling the river at this point has been acquired for canoe access and parking......

Hospitality stream connects eleven ponds that provide lakeside residences with a Pinelands forest setting.

This portion of the river shows no sign of the Cherry Lane development one hundred yards from the left bank......

A year around home near Weymouth has its own floating canoe landing, mowed lawn and residence discreatly sited among the pines oaks and maples.

Weymouth Church and Cemetery c. 1805 built for and by iron making people whose decendants still use its sanctuary

Known as Makepeace Lake this huge tract of Pineland wetlands has recently been added to the Pinelands National Reserve. Its waters replenish the underlying aquifer and feed the Great Egg Harbor River via extensive swamps....

Lake Lenape is nearly two miles long with a lighthouse in the center, residential housing, an amusement park and boat livery for canoeing and skiing on the right hand shore. The left hand shore is being acquired by the County for parkland...

The lower end of Lake Lenape is in the heart of historic Mays Landing, which is the County seat and targeted for much more development by the Pinelands Comp. Management Plan than the present residents desire.....

The eastern shore (rt) of The Great Egg Harbor has scattered residences and a few marinas set among the pines while the west bank consists of some 40 thousand acres of tidal marsh - nursery for fish and recreation for people.

The estuary known as the Great Egg Harbor Bay provides for fishing, crabbing, sking, sailing shellfishing and a great open space for a breath of fresh air......

while the Great Egg Harbor Inlet to the sea provides every conceivable pleasure that water loving people could wish for but it needs protection from user-abuse and recreational overload that local consciousness could abate.

GREAT EGG HARBOR RIVER RESOLUTION

WHEREAS, the Great Egg Harbor River, and its tributaries, is one of the largest rivers in the State of New Jersey, traversing much virgin woodland; and,

WHEREAS, the Great Egg Harbor River provides residents of Camden County and other counties with many outstanding fishing, boating, sightseeing, economic, cultural and natural resourses and other opportunities; and,

WHEREAS, the Great Egg Harbor River has played a significant role in the history of South Jersey and supplies water for many local lakes and recreational facilities; and,

WHEREAS, it is necessary, for the benefit of the residents of Winslow Township and surrounding areas and future generations that all attempts be made to protect the Great Egg Harbor River from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can assist local government in preparing a long term protection plan for the Great Egg Harbor River,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Committee of Winslow Township in Camden County, that this Governing Body supports all actions that will allow the Great Egg Harbor River to be designated for study under the provisions of the National Wild and Scenic Rivers Act.

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman William Hughes, United States Senator William Bradley, United States Senator Frank Lautenberg and United States Congressman James Florio.

Adopted: January 22, 1986

Ronald C. Nunnenkamp, RMC
Township Clerk/Administrator
Township of Winslow

Sierra Club
NEW JERSEY CHAPTER
360 Nassau Street, Princeton, N.J. 08540
(609) 924-3141

December 18, 1985

RECEIVED
DEC 23 1985

J. Glenn Eugster, Chief
Division of Park and Resource Planning
National Park Service
600 Arch St., Room 9428
Phila., Pa., 19106

Dear Mr. Eugster:

By this letter the New Jersey Chapter, Sierra Club expresses its support of "Wild and Scenic River" designation for the Great Egg Harbor River.

The motion was approved by unanimous vote at the December 16th, 1985 Executive Committee meeting at Princeton University.

Yours truly,
Roger G. Stewart
Roger G. Stewart
N.J. Chapter Secretary

CC: Ian Walker, Chair
Gary Patterson
Warren E. Fox
Sandy Redfield

TO EXPLORE, ENJOY AND PRESERVE THE NATION'S FORESTS, WATERS, WILDLIFE AND WILDERNESS

Atlantic Audubon Society
P. O. Box 63, Absecon, N. J. 08201

JAN 23 1986

January 18, 1986

Ms. Joan Batory
National Park Service
600 Arch Street, Room 9428
Philadelphia, PA 19106

Dear Ms. Batory,

The Atlantic Audubon Society supports the concept of Wild and Scenic River designation for the Great Egg Harbor River and its tributaries. This beautiful and relatively wild river in such a heavily populated eastern state as New Jersey is well known far and wide for its boating, fishing and river recreation. In addition, it has great historic value, particularly to us, as the location of one of John James Audubon's journeys and the locale for some of his paintings.

We wish to see the river preserved as a wild and scenic river for this and future generationsof residents and visitors in this area. We therefore urge that the appropriate steps be taken to achieve for the Great Egg Harbor River the designation of Wild and Scenic.

If there is anything we can do to further such designation, please feel free to call on us.

Sincerely,

Edgar C. Bristow, M.D.
President

"AUDUBON MEANS LIFE"

R:31-86

RESOLUTION TO PROTECT THE GREAT EGG HARBOR RIVER AND ITS' ADJACENT LAND AREAS.

WHEREAS, the Township of Monroe has long recognized that the Great Egg Harbor River provides many people with many outstanding fishing, boating, sight-seeing, economic, cultural and natural resources, and other opportunities; and

WHEREAS, over the past months local concern about this important river has increased due to a number of factors including water quality, proposed land use developments; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Great Egg Harbor River which will rely on the use of existing government authorities and voluntary private landowner actions.

NOW, THEREFORE, BE IT RESOLVED, AND IT IS HEREBY RESOLVED that the Township of Monroe, Gloucester County, hereby urges members of Congress to enact legislation to designate the Great Egg Harbor River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED, AND IT IS HEREBY RESOLVED that the intent is to protect the river and its' important adjacent land areas for future generations through the development of a locally prepared and controlled river management plan.

BE IT FURTHER RESOLVED, AND IT IS HEREBY RESOLVED that said study shall be wholly without any cost or expense to the Township of Monroe.

TOWNSHIP OF MONROE, GLOUCESTER CTY.

Robert T McDonald

ROBERT McDONALD, PRES. of COUNCIL

ATTEST:

Margaret T Hassan

MARGARET T. HASSAN, DEP. CLERK

RESOLUTION NO. 2587 - 1985

WHEREAS, The Township of Buena Vista has long recognized that Great Egg Harbor River provides our residents with many outstanding fishing, boating, sight-seeing, economic, cultural and natural resource and other opportunities.

WHEREAS, over the past months, local concern about this important river has increased due to a number of factors including water quality, proposed land use developments; and

WHEREAS, The National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Great Egg Harbor River which will rely on the use of existing government authorities and voluntary private landowner actions.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Township of Buena Vista, Atlantic County, hereby urges members of Congress to enact legislation to designate the Great Egg Harbor River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that our interest is to protect the river and its important adjacent land areas for future generations through the development of a locally prepared and controlled river management plan.

BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Mayor of the Governing Body is hereby authorized to appoint a representative to serve on a Great Egg Harbor River Advisory Committee and to execute an agreement with the other river townships on behalf of the Township of Buena Vista's endorsement of the undertaking of such a study.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that said study shall be wholly without any costs or expenses to the Township of Buena Vista.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Congressman William Hughes, Senator Frank Lautenberg, Senator William Bradley and Congressman Florio.

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF BUENA VISTA

BY: John Krokos
JOHN KROKOS - MAYOR

DATED: NOVEMBER 25, 1985

ADOPTED: NOVEMBER 25, 1985

ATTEST:
BY:

Motioned by: Seconded by:

RESOLUTION # 53-85

WHEREAS, The City of Corbin City has long recognized that the Tuckahoe River provides our residents with many outstanding fishing, boating, sight-seeing, economic, cultural and natural resource and other opportunities.

WHEREAS, over the past months, local concern about this important river has increased due to a number of factors including water quality, proposed land use developements; and

WHEREAS, The National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Tuckahoe River which will rely on the use of existing government authorities and voluntary private landowner actions.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED that the City of Corbin City, County of Atlantic, hereby urges members of Congress to enact legislation to designate the Tuckahoe River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that our intent is to protect the river and its important adjacent land areas for future generations through the developement of a locally prepared and controlled river management plan.

BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Mayor of the Governing Body is hereby authorized to appoint a representative to serve on a Great Egg Harbor River Advisory Committee and to execute an agreement with the other river townships on behalf of the City of Corbin City's endorsement of the undertaking of such a study.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that said study shall be wholly without any cost or expenses to the City of Corbin City.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Congressman William Hughes, Senator Frank Lautenberg, Senator William Bradley and Senator James J. Florio.

Walter W. Whetstone

WALTER W. WHETSTONE

John P. Gordon

JOHN P. GORDON

EDITH WEAVER

Mays Landing, NJ
July 1, 1985

Ms. Sorrentino moved, seconded by Mr. Percy, that the minutes of the June 17, 1985 meeting be and are hereby approved as published.

SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Sorrentino moved, seconded by Mr. Percy, that the following reports be and are hereby accepted for filing and all bills and payrolls approved.

Irene Weisenstein, Tax Collector	$1,019,285.96 (May collect.)
Joan I. Anderson, Township Clerk	15,918.85 (May receipts)
	90.60 (Dog Lic. rec.)

SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Ms. Sorrentino moved, seconded by Mr. Pritchard, that the application of Mays Landing Rotary Club for a non-draw raffle license for August 8, 9 & 10, 1985, for gaves at the 4-H Fair be and is hereby

SAID MOTION CARRIED WITH ALL MEMBERS VOTIN

Mr. Percy moved, seconded by Mr. Pr
be and are hereby approved for membership
the Cheif.

Thomas Riordan
George Sutton
Kurt Umscheid

SAID MOTION CARRIED WITH ALL MEMBERS VOTIN

Mr. Pritchard moved, seconded by Ms
applications for special permits for socia
submission to the Alcoholic Beverage Contr

Luarelcale Vol. Fire Company 7/21 85
Tropicana Employees 7/15 85
Mays Landing Athletic Assn. 8/25 85

SAID MOTION CARRIED WITH ALL MEMBERS VOTIN

Send copy to:
J. Glenn Eugster, Chief
Division of Parks + Resource Planning
National Park Service
600 Arch St, Rm 9428
Phila, Pa 19106

Thanks

COMMITTEE REPORTS:

Mr. Pritchard reported on attending meetings regarding the Great Egg Harbor River and attempts to have it declared a Wild and Scenic River under the Department of Interior. A committee of residents has formed to pursue this possibility. There is a need for the municipalities along the River to forward resolutions to Congressman Hughes asking his support in having the designation made.

Based on the report, Mr. Pritchard moved, seconded by Mr. Percy, that the following resolution be and is hereby adopted.

WHEREAS the Great Egg Harbor River is one of the largest in the State of New Jersey and said River flows through much virgin woodlands; and

WHEREAS the Great Egg Harbor River has played a tremendous part in the history of South Jersey as well as supplying the water for many lakes and other recreational facilities; and

WHEREAS unless steps are taken forthwith to protect the aforementioned Great Egg Harbor River from further pollution, a beautiful historic and natural resource will be lost for all times to the present and future generations,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hamilton, County of Atlantic, that Congressman William J. Hughes and Senator Frank Lautenberg be and are hereby petitioned to recommend to the Department of Interior that the Great Egg Harbor River be designated a Wild & Scenic River and placed under the protection of the government.

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to Congressman Hughes and Senator Lautenberg and the Secretary of the Interior.

SAID RESOLUTION ADOPTED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Mr. Percy reported the paving of Camac Avenue is completed.

Ms. Sorrentino reminded everyone of the upcoming 4th of July celebration activities at Gaskill Park which are jointly sponsored by the Chambet of Commerce and The Township. She urged those who have not already done so to donate to the fireworks fund drive.

Ms. Sorrentino commented on the progress of the addition to the Senior Citizen Center and suggested the other members and the public stop to see it.

PUBLIC COMMENTS

Mrs. Katherine Lavton asked if South River was includeded in the Wild and Scenic Rivers. She was advised it is. In response to Mrs. Lavton's question on the effect of such a designation on those owning property along the river who have not yet built on it, Mr. Pritchard said he would find out for her.

In reply to Mrs. Dettloff's question on the grant for the Senior Citizen Center addition, Ms. Sorrentino explained that there was $29,000.00 for construction. Therefore, certain things related to the completion of the addition have to be done with municipal funds.

In reply to a question by Mrs. Dettloff regarding public hearings on the Revenue Sharing Budget, Mrs. Anderson explained it was part of the public hearing on the regular municipal budget this year because the government no longer requires a separate hearing.

DISCUSSIONS

A brief discussion took place on whether or not it was necessary to appoint or swear in the lifeguards as special officers with limited duty in order to enforce regulations at the Cove. Based on N.J.S.A. 40:12-6, the personnel at the Cove automatically have the "power and authority of police officers while on duty for the purpose of preserving order and the observance of the rules, regulations and by-laws of the board". Therefore no action was required by the governing body.

Ms. Soreentino reported having been approached by several business owners

Motioned by: Mr. Holt

Seconded by:
Mr. Battistini

RESOLUTION # 3-4-85

WHEREAS, The City of Estell Manor has long recognized that Great Egg Harbor River provides our residents with many outstanding fishing, boating, sight-seeing, economic, cultural and natural resource and other opportunities.

WHEREAS, over the past months, local concern about this important river has increased due to a number of factors including water quality, proposed land use developements;and

WHEREAS, The National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Great Egg Harbor River which will rely on the use of existing government authorities and voluntary private landowner actions.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED that the City of Estell Manor, Atlantic County, hereby urges members of Congress to enact legislation to designate the Great Egg Harbor River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that our intent is to protect the river and its important adjacent land areas for future generations through the developement of a locally prepared and controlled river management plan.

BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Mayor of the Governing Body is hereby authorized to appoint a representative to serve on a Great Egg Harbor River Advisory Committee and to execute an agreement with the other river townships on behalf of the township of the City of Estell Manor's endorsement of the undertaking of such a study.

BE IT FURTHER RESOLVED AND IT IS HEREBY RESOLVED that said study shall be wholly without any costs or expenses to the City of Estell Manor.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to Congressman William Hughes, Senator Frank Lautenberg ,Senator William Bradley and Senator Florio.

Thomas D. Tummon YES
THOMAS D. TUMMON, MAYOR

Francis E Cuneo YES
FRANCIS E. CUNEO

John Battistini Jr. YES
JOHN BATTISTINI,JR.

Edward H Christiansen YES
EDWARD H. CHRISTIANSEN,SR.

Monty Holt YES
ALMONTE HOLT

Copy

TOWNSHIP OF FRANKLIN

RESOLUTION NO: 154-85

RESOLUTION SUPPORTING LEGISLATION AS PROVIDED IN THE WILD AND SCENIC RIVERS ACT

WHEREAS, the Congress of the United States of America is considering the passage of legislation which would require the Secretary of the Interior to conduct studies to determine whether to designate the Great Egg Harbor River as part of the National Wild and Scenic River system; and

WHEREAS, such inclusion into the system would create a means to preserve the Egg Harbor River's scenic, recreation and aesthetic features; and

WHEREAS, the governing body of the Township of Franklin believes that such action by the Congress of the United States of America and the Secretary of the Interior would help to preserve the Great Egg Harbor River's scenic, recreation and aesthetic features and would also benefit the community of the Township of Franklin.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Franklin that the proposed legislation is hereby formally supported and that copies of this Resolution shall be forwarded by George G. Fabrizio, Clerk of the Township of Franklin to Congressman William J. Hughes, Congressman James J. Florio, Senator William Bradley and Senator Frank

HOFFMAN,
UZIO & HOFFMAN
5 HUNTER STREET
ODBURY, N.J. 08096

Lautenberg.

TOWNSHIP OF FRANKLIN

ASTOR C. GIOVINAZZI, Mayor

ATTEST:

George G. Fabrizio

GEORGE G. FABRIZIO, Clerk

CERTIFICATION

I, George G. Fabrizio, Clerk of the Township of Franklin, do hereby certify that the foregoing Resolution was presented and duly adopted by the Township Committee at a regular meeting held on December 10, 1985.

George G. Fabrizio

GEORGE G. FABRIZIO, Clerk

HOFFMAN,
MUZIO & HOFFMAN
5 HUNTER STREET
OODBURY, N.J. 08096

Cof 1

Resolution
156 of 1985

Whereas the Great Egg Harbor River flowing thru Somers Point is one of the largest rivers in the State of New Jersey, traversing much virgin woodland, and

WHEREAS, the Great Egg Harbor River provides residents of Somers Point and surrounding communities with many outstanding fishing, boating, sightseeing, economic, cultural and natural resourses and other opportunities; and

WHEREAS, the Great Egg Harbor River has played a significant roll in the history of South Jersey and supplies water for many local lakes and recreational facilities; and

WHEREAS, it is necessary, for the benefit of the residents of Somers Point and surrounding areas and future generations, that all attempts be made to protect the Great Egg Harbor River from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can assist local government in preparing a long term protection plan for the Great Egg Harbor River.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that this City Council supports all actions that will allow the Great Egg Harbor River to be designated for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman Wiliam Hughs, United States Senator William Bradley, United States Senator Frank Lautenberg and United States Congressman James Florio.

Proposed by Councilman Risley.

I, MARY C. LENNIE, City Clerk of the City of Somers Point, New Jersey, hereby certify that the foregoing is a true copy of a certain Resolution, duly adopted by the Common Council of said City, at a regular meeting held the 21 day of November , 1985.

In Witness Whereof, I have hereunto set my hand and seal of my Office this 22 day of November , 19 85.

Mary C. Lennie
Mary C. Lennie, City Clerk

NEYMOUTH TWP, New Jersey

Resolution No. 1

Approved as to Form and Legality

Submitted By:

TWP. COUNSEL

COUNCIL MEMBER

RE: GREAT EGG HARBOR RIVER

RESOLUTION

WHEREAS, the Great Egg Harbor River, AND ITS TRIBUTARIES,, is one of the largest rivers in the State of New Jersey, traversing much virgin woodland; and

WHEREAS, the Great Egg Harbor River provides residents of Atlantic County and surrounding counties with many outstanding fishing, boating, sightseeing, economic, cultural and natural resourses and other opportunities; and

WHEREAS, the Great Egg Harbor River has played a significant role in the history of South Jersey and supplies water for many local lakes and recreational facilities; and

WHEREAS, it is necessary, for the benefit of the residents of Weymouth Twp. and surrounding areas and future generations, that all attempts be made to protect the Great Egg Harbor River from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can assist local government in preparing a long- term protection plan for the Great Egg Harbor River.

Resolution No.

NOW, THEREFORE, BE IT RESOLVED BY COUNCIL OF Weymouth Twp, IN ATLANTIC COUNTY, that this COUNCIL supports all actions that will allow the Great Egg Harbor River to be designated for study under the provisions of the National Wild and Scenic Rivers Act.

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman William Hughs, United States Senator William Bradley, United States Senator Frank Lautenberg and United States Congressman James Florio.

ADOPTED: 24 1985

I, [illegible], clerk of Weymouth Township, N.J., do hereby certify that the foregoing is a correct copy of a resolution adopted by the council at a meeting duly held on the [illegible] day of [illegible] 19 ____

Signed, ____________________
Township CLERK

U.S. SENATORS:
Sen. Frank Lautenberg
Sen. William Bradley
Senate Office Building
Washington, D.C. 20510

U.S. REPRESENTATIVES:
James J. Florio
First District
21 Colby Avenue
Suite 1617
Stratford, N.J. 08084

William J. Hughes
Second District
2307 New Road
Northfield, N.J. 08225

STATE SENATORS:
James R. Hurley
First District
821 Columbia Ave.

EGG HARBOR TOWNSHIP

RESOLUTION # 221

1985

WHEREAS, Egg Harbor Township has long recognized that the Great Egg Harbor River provides our residents with many outstanding fishing, boating, sight-seeing, economic, cultural, and natural resources and other opportunities, and

WHEREAS, over the past months, local concern about this important river has increased due to a number of factors including water quality, proposed land use developments, and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can help local governments to prepare a long term protection plan for the Great Egg Harbor River which will rely on the use of existing government authorities and voluntary private landowner actions;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of Egg Harbor Township, Atlantic County, New Jersey that we hereby urge members of Congress to enact legislation to designate the Great Egg Harbor River for study under the provisions of the National Wild and Scenic Rivers Act.

BE IT FURTHER RESOLVED, that our intent is to protect the river and its important adjacent land areas for future generations through the development of a locally prepared and controlled river management plan.

BE IT FURTHER RESOLVED, that the Mayor of Egg Harbor Township is hereby authorized to appoint a representative to serve on a Great Egg Harbor River Advisory Committee and to execute an agreement with the other river communities on behalf of the Township of Egg Harbor's endorsement of the undertaking of such a study.

BE IT FURTHER RESOLVED, that said study shall be wholly without any costs or expenses to the Township of Egg Harbor.

AND BE IT FURTHER RESOLVED, that the Township Clerk forward certified copies of this Resolution to the United States Department of the Interior, Congressman Hughes, Senator Bradley, Senator Lautenberg, Congressman Florio, the Atlantic County Executive, Atlantic County Freeholders, the Atlantic County Parks and Recreation Advisory Committee and the 22 municipalities bordering the Great Egg Harbor River.

ARTHUR L. FOSTER, MAYOR

DATED: July 24, 1985

ATTEST:

PATRICIA INDRIERI, RMC
TOWNSHIP CLERK

	AYE	NAY	ABSENT
Maria Bohle	X		
John Carman	X		
Louis Cullen	X		
Arthur Foster	X		
Daniel Garshman			X

CERTIFIED AS A TRUE COPY OF A RESOLUTION
ADOPTED BY TOWNSHIP COMMITTEE OF EGG HARBOR
TOWNSHIP, N.J. AT A MEETING ON 7-24-85
ATTEST Patricia Indrieri RMC
TOWNSHIP CLERK

County of Atlantic, New Jersey

Resolution No. 527

Approved as to Form and Legality

County Counsel VINCENT J. SGRO

Submitted By:

Freeholder John Mahoney

RE: GREAT EGG HARBOR RIVER

RESOLUTION

WHEREAS, the Great Egg Harbor River, flowing through Atlantic County, is one of the largest rivers in the State of New Jersey, traversing much virgin woodland; and

WHEREAS, the Great Egg Harbor River provides residents of Atlantic County and surrounding counties with many outstanding fishing, boating, sightseeing, economic, cultural and natural resourses and other opportunities; and

WHEREAS, the Great Egg Harbor River has played a significant roll in the history of South Jersey and supplies water for many local lakes and recreational facilities; and

WHEREAS, it is necessary, for the benefit of the residents of Atlantic County and surrounding areas and future generations, that all attempts be made to protect the Great Egg Harbor River from pollution and uncontrolled land use development; and

WHEREAS, the National Park Service, through the provisions of the National Wild and Scenic Rivers Act, can assist local government in preparing a long term protection plan for the Great Egg Harbor River.

I, Thomas R. Somers, Clerk of the Board Chosen Freeholders of the County of Atlantic, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Board at a meeting duly held on the 12th day of November 1985

Signed, Thomas R. Somers
Clerk of the Board

RECORD OF VOTE													
FREEHOLDER	AYE	NAY	N.V.	A.B.	RES.	SEC.	FREEHOLDER	AYE	NAY	N.V.	A.B.	RES.	SEC.
Bryant				✓			McLernon				✓		
Conover	✓						Messick	✓					
Echevarria	✓					✓	Nickles	✓					
Gaffney	✓						Solari	✓					
Mahoney	✓				✓								

A.B. = Absent   N.V. = Not Voting

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF CHOSEN FREEHOLDERS OF ATLANTIC COUNTY, that this Board supports all actions that will allow the Great Egg Harbor River to be designated for study under the provisions of the National Wild and Scenic Rivers Act.

AND BE IT FURTHER RESOLVED that copies of this resolution be sent to the United States Department of the Interior, United States Congressman William Hughs, United States Senator William Bradley, United States Senator Frank Lautenberg and United States Congressman James Florio.

ADOPTED: November 12, 1985

COUNTY OF ATLANTIC:

Thomas R. James

Clerk of the Board

Parks and Recreation Division

A RESOLUTION SUPPORTING THE ESTABLISHMENT OF A COMMITTEE COMPRISED OF FEDERAL, STATE, COUNTY, MUNICIPAL, AND PUBLIC AGENCIES FOR THE PURPOSE OF PRESERVING AND PROTECTING THE GREAT EGG HARBOR RIVER CORRIDOR AND ITS TRIBUTARY BRANCHES.

WHEREAS, the Atlantic County Parks and Recreation Advisory Commission recognizes the sensitive nature of the Great Egg Harbor River Basin, and its limited recreational potential, and,

WHEREAS, through current land holdings and potential future acquisitions, Atlantic County has made a major financial committment to the use of this river as a recreational resource, and

WHEREAS, Atlantic County cannot protect the water quality of this river without the full cooperation of upstream neighboring municipalities and counties, and associated state agencies.

NOW, THEREFORE, BE IT RESOLVED, that the Atlantic County Parks and Recreation Advisory Commission requests the assistance of the County Executive, the Board of Chosen Freeholders, the Division of Parks and Recreation, and the Planning Division, in the formulation and coordination of protective measures which will enhance and protect the water quality of the Great Egg Harbor River, and its tributary branches. This protection should be afforded by designating this River as a "Wild and Scenic River" under federal guidelines.

MEMBERS:	Aye	~~Nay~~	~~Abstain~~
		[illegible]	
Mr. Warren Fox	✓ Warren Fox		
Mr. Elmer Ripley	✓ Elmer Ripley		
Mr. Carl Anderson absent			
Mr. Eugene Compton	✓ E Compton		
Mrs. Maria Bohle	✓ Maria Bohle		
Mr. Larry James absent			
Mr. Harry Astin Harry Astin	✓		

Freeholder John Mahoney left early

[From the Ocean City (NJ) Sentinel-Ledger, June 17, 1986]

GREAT EGG HARBOR RIVER TO JOIN "WILD AND SCENIC" LIST

The Great Egg Harbon River, from its orgin in Berlin Boro, Camden County to its out-flow to the sea at Ocean City, is expected to become a "Wild and Scenic River" through the efforts of Warren E. Fox of Linwood, Rep. William J. Hughes and U.S Sens. Bill Bradley and Frank Lautenberg.

The Wild and Scenic Rivers Act (1968) provides for the evaluation of river segments by the National Park Service as wild, scenic or recreational on the basis of how much development is already along the banks.

Upon evaluation, a watershed commission is appointed, consisting of representatives of the communities located within the watershed, to establish policies to manage the river ensuring the river's special qualities are never lost or degraded and that it will remain free-flowing.

Prior to his retirement in 1970, Fox managed a motel-marina and a boatyard in Ocean City and experienced problems with local sewage systems "impacting adversely upon the senses" of his patrons. His attempts to gain corrective action led him to nearby colleges to study wastewater treatment systems and aquatic biology to gain the expertise needed to promote regional systems as a means of improving water quality and fishing.

His quest didn't remain local. Upstream communities along the length of the Great Egg maintain antiquated plants that discharged poorly treated effluent into the river, degrading the water so that fish populations diminished and migratory species had difficult finding their spawning grounds.

The Clean Water Act (1972) did "great things," said Fox, in reclaiming the river through it's "208" program which provided for regionalizing and modernizing sewage systems. But two communities still discharge into the river.

Berlin Boro discharges just a mile downstream from the river's origin in spring-fed pond, and the Hamilton Township (Mays Landing) plant discharges into Babcock Creek, just a few hundred yards upstream from the harbor at Gaskill Park. The operations of both these treatment plants are to be diverted into regional systems but bureaucracy and financing continue to delay the regionalization.

A former Camden County representative on the Pinelands Commission, Joan Batory, initiated the "Wild and Scenic" concept for the Great Egg Harbor River in the spring of 1986 because of its many miles of truly wild character and many more miles of beautifully scenic and "canoeable reaches," Fox explains.

Atlantic County has maintained a historic park in Weymouth the site of an 1805 iron forge and 1865 paper mill. Recently the county bought a 22 acre site stranding the river in Folsom Boro to serve as a canoe launching and parking facility.

The county is in the process of purchasing 1,800 acres along both sides of the river from Weymouth to Lake Lenape in Mays Landing, including the lake, and another 350-acre tract, known as the River Bend Marina in Egg Harbor Township. Together this will provide public access, to the tidal portion of the river for recreational purposes.

As chairman of the Atlantic County Parks and Recreation Advisory Commission, Fox took up the cause of the river and urged the governing bodies of the watershed communities to approve resolutions supporting the "Wild and Scenic" concept. Ten of 12 communities did so, as well as the Atlantic County Freeholders, the Sierra Club and the Atlantic Audubon Society.

These actions gave Congressman Hughes the authority to introduce the Great Egg Harbor River into an omnibus bill (H.R. 4350) providing also for seven other rivers to be studied by the National Park Service for inclusion into the national system of 61 river segments, totaling 6,900 river-miles in 23 states, most of them in the western portion of the country.

The bill was passed by Congress in March and is now awaiting a hearing June 20 before the Senate Subcommittee on Public Lands, Water and Resource Conservation chaired by Sen. Malcomb Wallop.

Companion legislation dealing with the Great Egg Harbor River separately and delineating the procedures for study by the National Park Service and subsequent actions has been co-authored by Sens. Bradley and Lautenberg in bill S-2287.

"All this legalese looks to a brighter future for the Great Egg Harbor River, the estuary and inlet," Fox says, "providing for better fishing, boating, swimming and reasonable development of homes and water-related businesses which don't adversely impact upon the river's character and quality."

Senator EVANS. Mr. Ripley.

STATEMENT OF ELMER C. RIPLEY, MAYS LANDING, NJ, ON S. 2287

Mr. RIPLEY. Mr. Chairman, I would like to thank you and the committee members for this opportunity to provide testimony in favor of S. 2287. I would like to give a brief history of the river itself to make sure that it is entered in the record.

The Great Egg Harbor River rises in the area of Berlin in Camden County, NJ. This picturesque river flows in a southwesterly direction through Winslow, Folsom, Penny Pot, and Weymouth. From there it twists and turns about the remains of Weymouth Furnace and then over the dam at Lake Lenape, through Mays Landing and thence to Jeffries Landing in Egg Harbor Township, past Jobs Point, Somers Point, and finally emptying into the Atlantic Ocean between Ocean City and Longport, NJ. The clear golden brown cedar stained water deepens below Mays Landing on its way to the sea.

The Lenni Lenape Indians whose name means First People, were the first humans to utilize the bounty of the Great Egg Harbor. Eels, weakfish, perch, pickerel, herring, bluefish, striped bass, clams, crabs, and sturgeon were all delicacies to be enjoyed. They traveled a trail which followed the Great Egg Harbor from the Delaware River to the Atlantic Ocean, much as people do today to enjoy the seashore. In times, these trails became the roads of the incoming settlers.

The Great Egg Harbor River is steeped with history. In 1696, James Steelman was appointed overseer of the highways for the seacoast section of Gloucester County and was ordered to lay out a road from Gloucester City to the coast. This road followed an old Indian trail along the Basse River, as the Indians called it, or the Great Egg Harbor River as we know it today.

The Great Egg Harbor River was important to the United States during the Revolutionary War period. Supplies for the Continental Congress in Philadelphia arrived at the landing early in 1776, being unloaded at Mays Place, then called the landing.

The closing of New York Harbor and the blockade of the Delaware Bay brought Mays Landing into additional demands, with the Great Egg Harbor River being one of the main ways still open to the Colonials, and this importance remained throughout the blockade.

The settlers of Mays Landing made it one of the principal supply bases for Gen. George Washington's armies. During the War of 1812, munitions were made at the Weymouth Furnace and transported via the Great Egg Harbor River. Shipbuilding was one of the major industries along its waterways and lasted until the year 1883.

This is a brief history of the river. The upper portion located within the Pine Barrens wilderness has a fairly stable water quality. It is unique because of the many rare species of plants, animals, and fish adjacent to and in its waters, and has been recognized internationally by the United Nations. It seems incredible that such a wilderness may be found within 30 miles of a vast metropolis.

Written testimony from associates in my group will explain the delicate ecosystem and scientific facts pertaining to the river. I live on land bounded by a tributary of the Great Egg Harbor, called Babcock's Creek. Approximately 15 years ago, a sewerage disposal system was constructed with the effluent entering this waterway. Since that time I have seen what modern technology can do to decimate our waterways. The flora and fauna have drastically changed. Some no longer exist, such as the stone fly.

With major residential and commercial development designated for this area, a threat exists to the recreational use of the river. The water quality will deteriorate further. No longer will fishing, boating, swimming, and shellfishing be an activity that has been a way of life since my forefathers first came to this area in 1820.

A form of protection must be afforded this beautiful waterway. Some will advocate that this issue not be addressed at all, but I feel that with guidelines structured by local, State, and Federal agencies, a comprehensive plan should be initiated to protect from abuse the Great Egg Harbor River.

I implore you to consider the passage of S. 2287 providing for a study of the Great Egg Harbor River and its tributaries as wild, scenic, and recreational.

Thank you for your consideration.

Senator EVANS. Thank you very much.

Terrence Moore.

STATEMENT OF TERRENCE D. MOORE, EXECUTIVE DIRECTOR, NEW JERSEY PINELANDS COMMISSION, NEW LISBON, NJ, ON S. 2287

Mr. MOORE. Thank you, Senator Evans.

My name is Terrence D. Moore and I am the executive director of the New Jersey Pinelands Commission. I have a prepared statement that I won't read, but will submit for your record.

I think I just would like to state that I am here from the State of New Jersey with my partners in the national reserve who represent local government and people who support the study of the Great Egg Harbor River for inclusion in the National Wild and Scenic River System.

This particular river is the major component that flows the Pinelands National Reserve. My statement also includes a resolution of the New Jersey Pinelands Commission which echoes their very strong support for this particular legislation and this study of the Great Egg Harbor River.

The Pinelands National Reserve was envisioned by Congress as a partnership between the Federal Government, the State of New Jersey, and its local jurisdictions. I think it's quite interesting to know that within the corridor of the Great Egg Harbor River, numerous municipalities have passed resolutions supporting this study.

A county was present this morning but had to leave because of the time period involved. The State of New Jersey supports this. The Pinelands Commission supports this. And that part of our partnership is working very well. I think it is unfortunate that the Federal partner in this enterprise was unable this morning to testify in favor of this particular bill. But I think from Senator Evans' question to the Deputy Director of the National Park Service, the answer was quite clearly that their heart is with their other partners. Unfortunately, the senior partner, the OMB, was not included in the National Parks and Recreation Act of 1978.

We in New Jersey support this particular measure. And I think we do congratulate both the congressional sponsor and Senator Bradley and Senator Lautenberg for their sponsorship and support of this measure.

This study can lead to something very important for the Pinelands National Reserve because we don't have a wild and scenic river in this part of the State of New Jersey. I think it would be quite wonderful that the Pinelands National Reserve can be recognized not only for its land and water resources, but also for the designation of our State's first national wild and scenic river.

Thank you.

[The prepared statement of Mr. Moore follows:]

The Pinelands Commission
P.O. Box 7, New Lisbon, N. J. 08064 (609) 894-9342

Statement of
Terrence D. Moore
Executive Director
New Jersey Pinelands Commission
Before the
Senate Subcommittee on
Public Lands, Reserve Water,
and Resource Conservation

June 20, 1986

Senator Wallop and members of the Committee, my name is Terrence D. Moore and I am the Executive Director of the New Jersey Pinelands Commission. I am pleased to be here today to speak in support of the legislation before you which provides for the study of the Great Egg Harbor River for inclusion in the National Wild and Scenic River System.

Major portions of the Great Egg Harbor River traverse the Pinelands of New Jersey, an area which enjoys designations as this country's first National Reserve, and as an International Biosphere Reserve. The protection of the river is of continuing concern to the people of New Jersey, and to the Commission which administers land use in the Pinelands National Reserve. Portions of the river lie outside of the legislatively defined boundaries of the Pinelands including its headwaters which rise in Berlin Township in Camden County. Degradation of these waters could in the future, have significant consequences on those

The Pinelands – Our Country's First National Reserve portions of the river which flow through the National Reserve.

The New Jersey Pinelands Comprehensive Management Plan designates the Great Egg Harbor River as a wild and scenic river with scenic corridors of special significance to the Pinelands and sets forth standards to protect these qualities. The river's environmental, cultural, and recreational attributes are well-known in the region, and throughout the State. The proposed study is a welcome addition to our knowledge and will result in a series of recommendations and measures to better protect this major resource. I am pleased, today, to transmit to this Committee, a resolution of the Pinelands Commission supporting the legislation before you.

The Pinelands National Reserve was envisioned by Congress as an experiment in the protection of areas of national significance through a partnership of the federal government and a state, its local jurisdictions, and its people. That partnership will be very visible to you today. You will find that this legislation to study the Great Egg Harbor River is being supported by the Department of the Interior, the State of New Jersey and the Pinelands Commission, the counties and municipalities through which the river flows, and people who desire its protection. The Pinelands Commission looks forward to participating in this joint effort, and to the future inclusion of the Great Egg Harbor River in the National Wild and Scenic River System.

Resolution of the New Jersey Pinelands Commissio

No. 86-55 Date of Introduction 6/13/8

Title

RESOLUTION

To Support H.R. 4350 which Provides for a Study to Determine the Eligibility of the Great Egg Harbor River for Inclusion in the National Wild and Scenic River System

Commissioner Ashmun presents the following Resolution:

WHEREAS, the Great Egg Harbor River is generally recognized as an invaluable water resource within the Pinelands National Reserve and is an important scenic and recreational resource within the region; and

WHEREAS, the Pinelands Comprehensive Management Plan designates the Great Egg Harbor River as a scenic corridor of special significance in the Pinelands National Reserve; and

WHEREAS, the United States Congress has under consideration H.R. 4350 which provides for a federal study of the Great Egg Harbor River to determine its eligibility for inclusion in the National Wild and Scenic Rivers System.

NOW, THEREFORE BE IT RESOLVED that the Pinelands Commission endorses H.R. 4350 as a means to initiate a study of the Great Egg Harbor River to determine if it warrants inclusion in the National Wild and Scenic Rivers System.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the members of New Jersey's Congressional delegation.

Record of Commission Votes

Commissioners	AYE	NAY	NP	ABS	Commissioners	AYE	NAY	NP	ABS	Commissioners	AYE	NAY	NP	ABS
Ashmun	x				Coleman S	x				McFadden	x			
Auerbach	x				Darlington	x				Sawhill			x	
Avery	x				Hogan	x				Snyder			x	
Brown			x		Hyres	x				Vaughan			x	
Chavooshian	x				Lee	x				Parker	x			

Adopted at a meeting of the Pinelands Commission

Date: June 13, 1986

Terrence D. Moore

Executive Director

Franklin E. Parker

Chairman

Senator **Evans**. Thank you very much. The questions I did ask earlier related, of course, to the distinction between the professional opinions of the Park Service and the administration's decision, generally budgetary in nature, which led to the opposition of a number of bills in front of it.

Let me read you the rationale which was put in the Park Service testimony for recognition of why it's in there, to see if you have any comments on that. They say, of course, they oppose the enactment of S. 2287, and go on further to describe the Pinelands National Reserve and the area of the river in there, and said:

> Since there is no Federal land along the river corridor, we believe its status is a matter for the State to consider. We would welcome a nomination from the Governor for designation as the State-administered component of the National Wild and Scenic River System.

Mr. **Moore**. May I comment, Senator?

Senator **Evans**. Surely.

Mr. **Moore**. New Jersey doesn't have a national park in the sense of the real meaning of a national park. What we have is a national park in disguise, and it's a very important land use experiment that the Federal Government entered into with the State of New Jersey.

I think it's quite important that the Federal Government follow through on its commitment to New Jersey's national park in disguise. While we don't have Federal land that is nonmilitary or nonfish and wildlife, and we certainly don't have Federal land along the Great Egg Harbor River, we have on the Pinelands Commission a representation of the Department of Interior through the requirements of the National Park and Recreation Act.

I think it would be a quite a shame if the National Park Service—and as I said before, I think their hearts are with us because they helped generate some of the interest in this particular designation—I think it would be quite a shame if we agreed with the position that only Federal land is important in a land use experiment that was very purposefully designed not to have a lot of Federal land, but to see if the Federal Government and the State government and, more importantly, local governments could get together as an alternative to Federal acquisition and preserve an area not only of statewide significance, not only of national significance, but indeed of international significance.

I guess what I'm doing is disagreeing with that statement, Senator.

Senator **Evans**. In the initial report of the Park Service's testimony which was then subsequently overridden by review, I guess, within the administration, they did support the idea of the study which is recommended by this bill, but suggested at that time that the 3-year limitation be removed so that they had more flexibility to deal with priorities and the money that they have available for various studies.

Do you have any comment on that portion of the recommendation?

Mr. **Pritchard**. Just that with the growth in the area, it seems like even 3 years will be a large amount of time as things are changing along that waterway. I think to extend it any more than 3 years might have a hazardous effect.

Mr. **Moore.** If I may add, Senator, I think there is an issue, a very important concern, and that is that this proposed study also includes portions of the river particularly the headwaters of the river that are located outside of the jurisdiction and indeed outside of the boundaries of Pinelands National Reserve.

There is no effective State land use control over development where that river rises. I think it is quite easy for anyone to understand that impacts on the headwaters of that particular river if not controlled will have very significant adverse impacts on those portions of the river that flow through the national reserve.

I do not know what will happen in the next 3 years in Camden County and Berlin, but I am not sure that any of us would like to see this time period extended for a great time period because there's no way to check what will happen in that particular area of the State of New Jersey.

Senator **Evans.** It is my understanding that once a river is placed in study status, that there are then some protections during that study status so that it wouldn't have a deterioration. It is just a question of how long.

It probably is a concern that if in fact that was the case so that there would be some protection during that study period, then of course you have got the problems of those who might be affected in terms of land use and property ownership, availability for sale, who might for an extended period of time be sort of in limbo, not knowing what they would be able to do.

Mr. **Morris.** It's also a question I believe, Senator, that the faster this occurs, the better the position the Pinelands Commission is in ultimately to, if necessary, revise its own land use standards to provide better protection for this river, and I think that is indeed the result of any recommendations that may come forth from this study which are going to be done through a cooperative relationship between the State and local governments and people.

Senator **Evans.** I think another concern very likely of the Park Service is that they have a limited number of professional team members who have a lot of these rivers to study. There is probably some concern that if they get tied into too rigid a time schedule, they may well not have the people available to really do an adequate job. But that is something we can go back on and review with them.

Mr. **Moore.** The regional director of the National Park Service serves as the Federal member of Pinelands Commission and I have 14 other people that would put great pressure on that particular member of the Commission to get it done more quickly.

Senator **Evans.** To get the priorities up there. Right.

OK. Well, we thank you very much. And if you have a train to catch, we certainly would understand. Any further questions we might have we will submit in writing to you. Thank you very much.

Mr. **Moore.** I would just say, Senator, it's nice to see your professional staff again.

Senator **Evans.** Next, Mr. Eric Olson.

STATEMENT OF ERIC OLSON, ASSOCIATE DIRECTOR OF CONSERVATION, AMERICAN RIVERS CONSERVATION COALITION, ON S. 2287, S. 2466, AND S. 2532

Mr. OLSON. Thank you, Mr. Chairman. It is a pleasure to be here today to present the views of the American Rivers Conservation Council in support of all three river bills, S. 2287, to study of the Great Egg Harbor River; S. 2466, to designate 19 miles of the Saline Bayou in Louisiana; and S. 2532, to designate 21 miles of the Black Creek in Mississippi.

My name is Eric Olson and I am the associate director of the American Rivers Conservation Council which is a small nonprofit conservation organization dedicated to the preservation of freeflowing rivers.

We work at the local, State, and Federal levels of government to ensure that a small portion of our remaining freeflowing rivers are preserved in their natural condition. My testimony today is also reflecting the views and the conditions of the Environmental Policy Institute, Friends of the Earth, the National Audubon Society, and the Wilderness Society.

Our organizations in total consist of over 650,000 individuals who are concerned also with the preservation of freeflowing rivers.

I would like to thank the chairman in absentia and you, Senator Evans, for scheduling these hearings and for taking over this hearing and for the earlier hearings that have been held on the Cache la Poudre River in Colorado and the Farmington River in Connecticut, also, to protect those rivers in the Wild and Scenic River System.

I would like to thank all of the Senators involved in the bills I'm commenting on today—Senators Bradley and Lautenberg, Johnston, Long, Cochran, and Stennis for their fine work in support of these very valuable river protection bills.

As you may be aware, each of these bills is contained in an omnibus package of river designation studies and technical amendments which passed the House of Representatives by voice vote earlier this session. It is my understanding that the policy of this committee is to not proceed with legislation until there is agreement among all of the Senators that are involved in that omnibus bill.

We have been working very hard with the Senators from Idaho and California in particular to clear up some concerns regarding the Henrys Fork of the Snake River and the Kern River, and we hope that something can be worked out in the near future.

Regarding the bills, I will just comment briefly on a couple of the points for each bill. The Great Egg Harbor River Wild and Scenic Study bill, in response to your question, Mr. Chairman, about the delaying of the study, I would strongly urge that the study not be delayed. I think right now we have a wonderful opportunity where there has been an overwhelming show of public support from the State government, the local government, the landowners, individuals who live along the river, and others—the Sierra Club and the Pinelands Commission as well.

I am afraid that this support will get watered down as the time for carrying out this study gets dragged on.

As others have mentioned, the Great Egg Harbor River is an integral part of the Pinelands Reserve. It has also been mentioned that one of the reasons for this study is to provide much more thorough protection for the reserve by covering those sections of the Great Egg Harbor which are outside the jurisdiction of the Pinelands Reserve. In particular, the headwaters and the outlet of the river are unprotected by the Pinelands Commission.

A second reason why the Great Egg Harbor study would be important would be to treat the Great Egg Harbor in a holistic sense. The guidelines or the comprehensive management plan for the Pinelands was designed to identify land use areas. Eight such areas were designated within the Pinelands, and the Great Egg Harbor River flows through four of those separate areas.

Those areas call for differing management regimes and unfortunately the Great Egg Harbor suffers under a series of conflicting management guidelines.

One final note: I would like to reiterate that while the Federal Government does not have any land along the Great Egg Harbor, there is a considerable commitment of time and resources that the Federal Government has put in to see that the Pinelands is protected and preserved. It has been studied by a variety of Interior Department agencies since 1968. It is an international biosphere reserve. The Pinelands, of course, was legislation that passed Congress in the late 1970's and more recently it has been receiving technical assistance from the National Park Service at the request of some of the State and local governments along the area.

One final note on the Great Egg Harbor is that the river suffers under a catch-22 situation where the State has been claiming that the Great Egg Harbor River is part of a national reserve and therefore is the responsibility of the Federal Government. The Federal Government, as you heard this morning, claims that since they have no land ownership, this is more appropriately a State responsibility.

Unfortunately, the river is at the butt end of that conflict and decision.

Regarding S. 2466, the Saline Bayou Wild and Scenic designation bill, I would like to submit for the record the testimony of Dr. Allen Herbert from Ruston, LA, who unfortunately was unable to make it today. He testifies in support of the designation.

Senator **Evans**. We will include that in the record.

Mr. **Olson**. Thank you very much.

Since the Saline Bayou was given fairly brief statements this morning, let me just touch briefly on what the bayou is [illegible] The Saline Bayou is a very narrow river which winds through [illegible] forest of towering pines and very mature stands of bottom land hardwoods. Nearly half of those are 80 years old or older.

A variety of wildlife species live in the area, including the grey fox, bobcat, deer, great blue heron, and the federally endangered red cockaded woodpecker, and the bald eagle. This array of natural cover has led to a diversity of wildlife which makes the Saline Bayou very popular. In fact, it is referred to as the Miss America of scenic rivers in the State of Louisiana. It is very popular with hunters, fishermen, canoeists, and hikers.

I think it is important to note that this type of a natural system is becoming increasingly threatened in the Southeast in particular where the slow growing stands of the bottom land hardwoods are being cleared out to make room for the much faster growing pine plantations.

A district ranger for the Forest Service, a gentleman by the name of George Tannehill who worked on the Kisatchie National Forest from 1935 to 1973, was very fond of the Saline Bayou and he deserves a lot of the credit for the condition that the Saline Bayou is in now by not allowing any of the trees in that area to be marked for cutting.

Senator EVANS. I wonder if you could——

Mr. OLSON. Speed it up. Certainly. Certainly.

I think that regarding the Saline Bayou, I would like to note that the area has been studied as a potential wilderness area in the late 1970's. It has just been the subject of a thorough land management plan for the Kasatchie National Forest which found the river eligible. It is a State-designated stream, and I think that perhaps enough studies have been done already, and I would urge that the Saline Bayou be designated at this time.

Regarding the Black Creek, Senator Cochran gave a very good description of the area.

Senator EVANS. We have heard testimony on that from Senator Cochran, so if you would like to conclude.

Mr. OLSON. I will mention briefly that one concern came up in the House regarding the Black Creek, and that was that the Forest Service intended to establish a 200-foot corridor for the designated section of the river. We found problems with that and we urged and recommended that the corridor be expanded to a quarter mile on the Federal lands because of the wide flood plain and the heavy recreational use that the Black Creek has right now.

These concerns were supported by Congressman Lott, the Forest Service, the Sierra Club, and American Rivers. We urge the subcommittee to act favorably on that compromise.

That will conclude my statement.

[The prepared statements of Mr. Olson and Dr. Herbert follow:]

ARCC American Rivers Conservation Council
322 4th Street, N.E. Washington, D.C. 20002 Telephone (202) 547-6900

TESTIMONY OF ERIC OLSON

ASSOCIATE DIRECTOR OF CONSERVATION

AMERICAN RIVERS CONSERVATION COUNCIL

on

S. 2287, THE GREAT EGG HARBOR RIVER WILD AND SCENIC STUDY BILL

S. 2466, THE SALINE BAYOU WILD AND SCENIC DESIGNATION BILL

S. 2532, THE BLACK CREEK WILD AND SCENIC DESIGNATION BILL

before

The Public Lands, Reserved Water, and Resource Conservation Subcommittee

June 20, 1986

Mr. Chairman and members of the subcommittee, it is a pleasure to be here today to present the views of the American Rivers Conservation Council in support of three bills which would protect rivers under the federal Wild and Scenic River System: S. 2287, to study the Great Egg Harbor River in New Jersey, S. 2466, to designate 19 miles of the Saline Bayou in Louisiana, and S. 2532, to designate 21 miles of the Black Creek in Mississippi.

My name is Eric Olson and I am the Associate Director of Conservation for the American Rivers Conservation Council (ARCC). American Rivers is a non-profit conservation organization dedicated exclusively to the preservation of free-flowing rivers. Our 6,000 members work at the local, state, and federal levels of government to ensure that a portion of our nation's heritage of rivers remain in their natural, free-flowing condition.

Today my testimony also reflects the views of the Environmental Policy Institute, Friends of the Earth, National Audubon Society, and The Wilderness Society. Together, our organizations consist of over 650,000 individuals concerned with the protection of our environment for the benefit of present and future generations.

I would like to thank you, Mr. Chairman, for scheduling these hearings today and for earlier wild and scenic hearings this subcommittee has held for the Cache la Poudre River in Colorado and the Farmington River in Connecticut. On behalf of ARCC's members, I would also like to thank the individual senators of the bills I am testifying on: Senators Bradley and Lautenberg for their sponsorship of the Great Egg Harbor River Study, Senators Johnston and Long for their interest in designating the Saline Bayou, and Senators Cochran and Stennis for their support of the Black Creek designation bill.

As you are aware, each of these bills is contained in an omnibus package (HR 4350) of wild and scenic river designations, studies, and technical amendments which passed the House of Representatives by voice vote under suspension of the rules earlier this session.

It is my understanding that the policy of this committee is to not proceed with legislation of an omnibus nature until each of the affected senators is supportive of the legislation. Concerns have been expressed by the Idaho senators in particular regarding the inclusion of the Henrys Fork of the Snake as a study river in that package. American Rivers and a coalition of other national conservation groups recently met with Senator McClure to discuss the fate of the Henrys Fork. We hope that an agreement will be reached shortly which will provide the necessary protection to the Henrys Fork and be acceptable to all interested parties. It is our hope that hearings could then be held on the Henrys Fork as well as the Kern River in California.

Regarding the bills under consideration today, I would like to make the following comments:

S. 2287, The Great Egg Harbor River Wild and Scenic Study Bill

Mr. Chairman, the Great Egg Harbor River is approximately 60 miles and typifies a pine barrens ecosystem. The slow-moving, tea-colored water meanders through tidal and non-tidal wetlands from its headwaters near Berlin, New Jersey to its outlet in the Atlantic Ocean.

The river and its surroundings provide habitat for 299 species of birds, 91 species of fish, 59 species of reptiles and amphibians, and 39 species of mammals. Included on this list is the endangered bald eagle, Pine Barrens Treefrog, and the timber rattlesnake.

The river provides opportunities for canoeing and fishing and still retains the vestiges of a bygone era with the remains of 17th and 18th century papermills, gristmills, and early factories scattered throughout the watershed.

Efforts to protect the Great Egg Harbor River through a wild and scenic study have received widespread public support in southern New Jersey. Eight townships located along the river; Winslow, Monroe, Egg Harbor, Hamilton, Buena Vista, Somers Point, Estell Manor, and Weymouth have passed resolutions in support of the study bill. No townships have officially opposed the study. Atlantic County and the Atlantic County Board of Parks and Recreation have passed similar resolutions. The Pinelands Commission and the State of New Jersey also support the study. The New Jersey Sierra Club and the southern Jersey chapter of the Sierra Club favor the study.

The Great Egg Harbor River, including two of its major tributaries - the Tuckahoe and Middle Rivers, was one of 1500 river segments identified by the National Park Service as a potential wild and scenic river in the Nationwide Rivers Inventory published in 1982. The Inventory identified "outstandingly remarkable" recreation, botanic, and wildlife values which qualify the river for further consideration as a federally designated river.

The Great Egg Harbor River is an integral part of the 1.1 million acre Pinelands Reserve through which it flows. The Pinelands Reserve was established in the late 1970's by acts of the US Congress and the New Jersey State Legislature. The primary goal of the Reserve is to manage the area in a creative manner, combining the skills of local, state, and federal governments with the private sector to encourage resource conservation and protection while providing for planned growth and development.

A study of the Great Egg Harbor River and its tributaries under the Wild and Scenic Rivers Act will complement the 1980 Comprehensive Management Plan (CMP) for the Pinelands in several ways.

First, in this fragile and dynamic pine barrens ecosystem, some of the most critical sections of the Great Egg Harbor River are either outside, or constitute the boundaries of, the Pinelands Reserve and thus are not under the jurisdiction of the Pinelands Commission. In particular, the headwaters near Berlin, an approximately 5 mile segment near Winslow, some of the major tributaries in Egg Harbor Township, and the outlet of the river in Egg Harbor Bay are all outside the Pinelands protection zones. The draft EIS for the CMP noted, "their development would result in significant short and long term adverse impacts on fish and wildlife resources."

Second, the CMP did not address prominent natural features, like the Great Egg Harbor River, in its management guidelines. Instead rules and regulations were promulgated for eight different land use areas within the reserve. Some of the areas are to be managed primarily as preservation units while others are to be managed primarily as growth units. The Great Egg Harbor River traverses four different land use areas each with a different management prescription. The end result is that the river suffers under conflicting and often contradictory management guidelines.

Third, the CMP identified 20 rivers within the Pinelands as potential state or federally designated components of the Wild and Scenic Rivers System. The Great Egg Harbor River and its tributaries were on the list.

American Rivers believes that a Wild and Scenic Study for the Great Egg Harbor River will provide a comprehensive analysis of the natural values of the river, how those natural values impact the Pine Barrens ecosystem, and what actions threaten the fragile balance of the Pine Barrens.

American Rivers recommends the inclusion of report language to specify the study area include the tributaries of the Great Egg Harbor River, particularly those tributaries outside of the Reserve boundaries and jurisdiction. ARCC also recommends the legislative history include language appointing an advisory committee to assist and advise the Secretary in the development of the study. Members of the study committee should include, but not be limited to; one representative from each of the townships along the river, one representative of the Pinelands Commission, one representative from the State of New Jersey, and one representative from the Interior Department.

S. 2466, The Saline Bayou Wild and Scenic Designation Bill

The Saline Bayou is one of the most scenic and popular streams in Louisiana. S. 2466 would designate 19 miles of the river, located in the Kisatchie National Forest in northern Louisiana, into the federal Wild and Scenic River System.

The murky waters of the bayou move slowly along a meandering route lined by towering pines, mature stands of bottomland hardwoods (nearly half of which are 80 years old or older), and moss-draped cypress trees. Many species of wildlife inhabit the Saline Bayou region, including wild turkey, grey fox, bobcat, deer, great blue heron, and the federally endangered red-cockaded woodpecker and bald eagle.

The array of natural cover and habitat has led to a diversity of wildlife which makes the Saline Bayou a favorite of hunters, fishermen, canoeists, and hikers.

This type of natural system is becoming increasingly scarce in the Southeast where slowly-growing stands of mature bottomland hardwoods are being cleared to make way for faster-growing pine plantations. Much of the credit for the preservation of the natural condition of the Saline Bayou belongs to George Tannehill, a distict ranger for the US Forest Service. Because of his concern for, and dedication to the Saline Bayou bottoms, he would not allow any of the trees in that area to be marked for cutting.

The allure of the Saline Bayou has been noted by state and federal agencies as well as recreationists and conservationists.

Thirty-three miles of the Saline Bayou are included in the Louisiana Natural and Scenic Streams System, administered by the Louisiana Department of Wildlife and Fisheries. Altogether the Louisiana system includes 47 rivers and 1250 river miles. Unfortunately, there is no budget for management and acquisition of these rivers.

The Forest Service, too, has recognized the value of the Saline Bayou. In the 1960's, in response to the increase in the popularity of canoeing, the Forest Service designated a section of the Saline Bayou as a float trip. In 1977, 6479 acres encompassing the Saline Bayou were evaluated for wilderness potential and the recent land management plan for the Kisatchie National Forest recommended protecting the river as a component of the federal Wild and Scenic River System.

C.C. Lockwood wrote of his canoeing experiences on the narrow Saline Bayou (in most places not more than 20 feet wide), "This narrowness along with the tall mature trees gave Saline Bayou a magical atmosphere. A thunderstorm had rolled in while we were loading up at Cloud Crossing, and the wind and rain filled the air with sweet smells and sounds."

American Rivers strongly supports the passage of S. 2466 and encourages the Forest Service to develop a comprehensive management plan in cooperation with the State of Louisiana to provide the maximum degree of protection for the Saline Bayou.

S. 2532, The Black Creek Wild and Scenic Designation Bill

The Black Creek is 126 miles long and is located in the De Soto National Forest is southern Mississippi. White sandbars, overhanging vegetation, colorful red clay vertical bluffs, and moss-covered banks are frequently observed natural characteristics along the Black Creek.

Threatened or endangered species known to exist within the Black Creek watershed include the American Alligator, Southern Coal Skink, Southern Hognose Snake, and the Red-cockaded Woodpecker. Other, more common inhabitants include the Great Blue Heron, Wood Duck, Marsh hawk, turkey, beaver, deer, river otter, and grey and red fox.

The Black Creek was one of 1500 rivers listed in the Nationwide Rivers Inventory which was compiled by the National Park Service from 1978 to 1982. Those rivers listed on the Inventory were determined to possess values which qualified them for further consideration for wild and scenic status. The Black Creek contained "outstandingly remarkable" scenic, recreational, geologic, fish and wildlife values for 87 miles.

With the passage of PL 95-625 in 1978, 41 miles of the Black Creek were studied by the US Forest Service for its wild and scenic potential. The Draft Environmental Impact Statement and Study Report (DEIS) identified "outstandingly remarkable" scenic and recreational values along the entire study segment but recommended a designation for only 19 miles.

In general, our organizations strongly disagree with Administration policy which eliminates river miles from future consideration as wild and scenic rivers on the basis of the land ownership pattern and the cost of acquisition of private land. In the case of the Black Creek, however, we recognize that the final recommended mileage figure represents a balance between conservationists, landowners, and other interests. We fully support that compromise.

The Final Environmental Impact Statement (FEIS) has yet to be transmitted to Congress but it is our understanding that 2 additional miles will be added to the 19 miles of the DEIS. The total designation will be for 21 miles. The additional 2 miles will extend the southern terminus for the designation to a convenient, developed access point, Fairly Bridge Landing.

In 1984, Congress established the 4560 acre Black Creek Wilderness Area which contains approximately 6 miles of the Black Creek currently being considered for designation. We wish to reemphasize that the more stringent wilderness management guidelines will apply to the river through the wilderness area.

One major concern which was brought up in the March hearings in the

House of Representatives on this bill was the Forest Service intent to establish only a 200 foot corridor along the Black Creek if it were to be designated. This is a significant reduction from the corridor allowable under the Wild and Scenic Rivers Act and we firmly believe that such a corridor could lead to the degradation of the natural values that this legislation is seeking to protect.

Section 3 (b) of the Wild and Scenic Rivers Act provides for a protected corridor which averages not more than 320 acres per mile (1/4 mile on either side of the river). This, of course, does not dictate to the administering agency that every wild and scenic river must have a 1/4 mile corridor. In fact, in several instances, American Rivers has supported corridors less than the maximum corridor width if the natural values of the river could be protected.

In the case of the Black Creek, however, we believe that to protect the scenic, recreational, and fish and wildlife values of the river, as well as its water quality, the maximum protected corridor allowable under the Wild and Scenic Rivers Act must be established on all federal lands. Briefly, the reasons for this 1/4 mile corridor are as follows:

1. The Black Creek is a typical coastal plain stream with a floodplain that extends well beyond the 200 feet recommended by the Forest Service as a protected corridor. In fact, the floodplain extends beyond the 1/4 mile limit which we have proposed, but we believe the wider corridor will provide significantly improved protection for the water quality of the river.

2. The statewide, regional and even national significance of recreation on the Black Creek was one of the major factors which led to the recommendation for federal designation by the Forest Service. The Forest Service is predicting a nearly tenfold increase in dispersed and developed recreation over the next fifty years (from 20,300 RVD in 1982 to 198,478 RVD in 2032). This dramatic projected increase in recreational use makes a strong case for a 1/4 mile corridor to spread the effects and reduce the impact of increased recreation visitor days.

3. The 1/4 mile corridor will provide enhanced protection for the threatened and endangered species that inhabit the Black Creek and its watershed. Some of those species were listed earlier in my statement.

Because of these concerns and the dedication of Congressman Lott, the Forest Service, the Sierra Club and American Rivers to achieve permanent protection for the Black Creek, language was developed in the legislative history of HR 4350 which directs the Forest Service to establish the 1/4 mile corridor on all federal lands along the proposed designation. A 200 foot corridor would be established on state and federal lands provided that activities beyond the 200 foot limit did not diminish the wild and scenic nature of the river.

We continue to support this compromise, as does Senator Cochran, and we urge this committee to look favorably upon it also. Additionally, we support the language accompanying HR 4350 which directed the Forest Service to include the Black Creek Scenic Hiking Trail within that protected wild and scenic corridor when possible.

I would also like to briefly mention that, in the past, severe, though temporary, degradation in the water quality of the Black Creek has resulted from occasional industrial accidents upstream. Under provisions of the Clean Water Act, is is incumbent upon the Environmental Protection Agency to protect rivers of outstanding natural values. Such rivers include those being studied or designated under the Wild and Scenic River System. We would encourage the EPA to investigate the situations which have led to these accidents to ensure that the possibility of future accidents is reduced or eliminated altogether.

Conclusion

For better or worse, the ordinary citizen, when asked about the rivers in the Wild and Scenic River System, conjures up images of Alaskan wilderness rivers like the Noatak, or cascading torrents of water coming down from the California Sierras, like the Tuolumne.

But rivers like the Great Egg Harbor, Saline Bayou and Black Creek, are just as "wild and scenic". The biotic community they support, the natural and cultural history they impart to us, and the recreational values they provide, while quite different from other wild and scenic rivers, are part of America's natural heritage and diversity of rivers. Such rivers deserve the same degree of protection and recognition that other, more famous, rivers in the system currently enjoy.

We strongly support the designations of the Black Creek and Saline Bayou and the study of the Great Egg Harbor River and look forward to having these valuable and quite different types of river protected in the federal system.

That concludes my statement. I would be pleased to answer any questions the subcommittee may have at this time.

208 REYNOLDS #38
RUSTON, LOUISIANA 71270

TELEPHONE 318 255 7474

ALLEN J. HERBERT, M.D. M.P.H.
FAMILY PRACTICE
PEDIATRICS

Dear Mr. Chairman and Members of the Committee,

It is my pleasure to appear before you this morning on behalf of the inclusion of the Saline Bayou in North Central Louisiana into the National Wild and Scenic Rivers System.

I represent the Sierra Club as the president of the Ouachita group of the Delta Chapter, comprising members from the 5th Congressional District. I live and have practiced medicine in Ruston, Louisiana for the past thirteen years.

The Saline Bayou is a slowly meandering stream that wanders through North Central Louisiana and into our beautiful Kisatchie National Forest. It is typical of the streams in Louisiana that are known as "bayous" with trees bending with Spanish moss lining the banks. The Saline Bayou wanders through mature stands of majestic Pine, Cypress and Tupelo trees which we want to be preserved.

Mr. Chairman, in Louisiana, as in many parts of the nation, there are few free-flowing streams left and Saline is one of these. Not only is it free flowing, but its rural location has kept its water pure and its beauty unspoiled. I am sure that members of the committee are aware that much of the hardwood acreage in the Southern United states is being converted to pine stands or to agricultural uses. This is of great concern to the citizens of Louisiana, especially to hunters, fishermen and outdoors men who enjoy our hardwood bottoms. These hardwood bottoms provide excellent habitat for a multitude of wildlife of both game and non-game species. This includes the endangered Red Cockaded Woodpecker and our national bird, the Bald Eagle. I am sure that in Louisiana, as in other parts of the nation, continued urban pressure and demands for agricultural and forest products will make continued loss of much of these hardwood bottom lands inevitable and their preservation even more valuable.

The Saline Bayou area is enjoyed by people from all over Louisiana and the surrounding states as a camping site for fishing, hunting, and just quiet relaxation. In addition to the visitors who come in, this canoeable stream has a special meaning to the people who live in this area. Not only do they presently use it for fishing and hunting, but in the past their very lives and sustenance depended on Saline water for watering livestock and crops.

Many of the older residents of the Saline bayou area tell stories of learning to swim at Cloud's Crossing campground, of fishing along the bayou banks, and of eating these fish that have "A sweeter taste" than fish from any of the other creeks in the area. They believe that this taste can be attributed to an extra salt content in Saline Bayou. In an effort to explain this special feeling, I quote Mr. David Chandler, a carpenter from Goldonna, Louisiana whose family has lived near Saline for five generations, in saying, "I have a son who will be two years old in November and I would like for him to be able to enjoy the beauty of Saline when he is old enough to take his little boy by the hand and walk those quiet, sandy banks."

Mr. Chairman, less than twenty miles from Saline Bayou, there is a stream approximately the same size and flowing in the same direction that is so polluted with industrial effluent that the waters are inky black. The residents there not only refuse to eat fish from the stream, but are so prejudiced against an ink-blacked stream that they refuse even to put a boat in the water. Timber operations have in some points completely obstructed the flow of this stream and devastated its beauty. Let me urge you to protect Saline Bayou from the sort of abuse that Dugdemona Bayou has received.

The banks of Saline Bayou contain historical sites and archeologic sites. This includes the Drake Salt Works site, a shallow salt dome, which drew Indians to this area to obtain salt. Later, during the Civil War, a salt mining operation was begun. A large (and unique to Louisiana) salt flat and artesian well remain in the area at the salt producing site.

Mr. Chairman, Louisiana had an extensive system of natural and scenic rivers which sadly have gone without state funding or attendance. The state offers no protection to Saline Bayou.

Finally, Mr. Chairman, if I could close on a more philosophical note, please let me urge the preservation of this bayou as an affirmation of the future that the people of this nation need at a time-when many feel and are saying that we have no future! Let us affirm that we are fully intending for ourselves and our posterity to enjoy this land. Thank you, Mr. Chairman.

Senator EVANS. Thank you.
Ms. Helen McGINNIS.

STATEMENT OF HELEN J. McGINNIS, MISSISSIPPI CHAPTER, THE SIERRA CLUB, EDWARDS, MS, ON S. 2532

Ms. McGINNIS. I thank you for the opportunity of speaking here. I live in Edwards, MS, which is near Jackson and Vicksburg, and I am a member of the executive committee of the Mississippi Chapter of the Sierra Club. They sent me up here to testify in favor of S. 2532, which will designate 21 miles of Black Creek as a national scenic river.

As Eric just mentioned, there was some conflict with the Forest Service over the width of the corridor through Forest Service land, but that has been resolved by the House version, H.R. 4350, and we support that compromise.

I've lived 5 years in Mississippi and I still don't have a southern accent and I'm sorry. I've hiked and backpacked in the Rockies, the Sierras, the Cascades, but never the Olympics, unfortunately—not yet—and through the lake country of New York and Michigan and Ontario. And when I came to Mississippi I didn't know where to find a wilderness type experience, but I then bought a cheap canoe and started discovering Mississippi's rivers.

Mississippi is number 50 in many things. It's a poor State. It has the lowest per capita income in the Nation, poor schooling, it's in poor financial state. It is nice to boast about Mississippi for a change. Mississippi has many beautiful rivers and streams. I am sure that the reason that this one segment of Black Creek was picked out for scenic river status is because it is relatively noncontroversial. Almost all the land is Federal already, and part of it is managed as a wilderness area, so there is little conflict.

But I hope that this is only the first of many rivers that will be cited for their outstanding recreational, scenic, and wildlife values.

Black Creek is a slow-moving river that is ideal for families. Small children love the white sand bars. They run up and down, playing games, splashing up and down in the water. I found I can canoe up Black Creek almost as fast as I can canoe down it.

It has this deeply colored, reddish-black water which gives it its name. It's a natural coloration. It runs all year clear, because it's spring-fed. You see egrets frequently. Sometimes you're lucky and run across an alligator. At night you can't believe the noise caused by myriads of frogs and crickets. It's just unbelievable; there is so much life there. And if you hear something close by, it might be an armadillo right outside your tent, foraging for food.

There are interesting people there, fishermen who have lived there for generations, and they love that land and they love their rivers.

I urge you to support this bill and I want to thank Senator Cochran and Senator Stennis for supporting it, and I hope that you will adopt the compromises that the House has already worked out.

[The prepared statement of Ms. McGinnis follows:]

STATEMENT OF HELEN J. McGINNIS

MISSISSIPPI CHAPTER OF THE SIERRA CLUB

on

S. 2532, THE BLACK CREEK WILD AND SCENIC RIVER DESIGNATION BILL

before

THE SUBCOMMITTEE ON PUBLIC LANDS,
RESERVED WATER AND RESOURCE CONSERVATION

Chairman Wallop, Senator Cochran, and members of the subcommittee, my name is Helen McGinnis. I live in the town of Edwards in western Hinds County, Mississippi. I am a member of the Executive Committee of the Mississippi Chapter of the Sierra Club, and have been sent here to testify in support of Senate Bill 2532, which would add a 21-mile segment of Black Creek in the DeSoto National Forest, southeastern Mississippi, to the national Wild and Scenic Rivers System.

The Sierra Club has a long-term interest in this beautiful meandering stream and its management. We frequently schedule canoe trips there, enjoying the pure white sand bars and clear water deeply stained with natural blackish-orange pigment that gives the creek its name. On other trips we backpack on the Black Creek hiking trail that the Forest Service has constructed along the creek. Our Chapter interacted with the Forest Service during the preparation of the Black Creek Wild and Scenic River Draft Environmental Impact Statement and Study Report. The Gulf Coast Group of the Chapter has officially adopted a 7-mile segment of the trail and a 5-mile portion of the stream, assisting the Forest Service in maintaining them for recreational use. We also supported designation of the 4600-acre Black Creek Wilderness Area, which includes about 6 miles of the portion of the stream proposed for Scenic River designation.

We urge you to recommend passage of S. 2532. Black Creek is only one of many lovely small rivers and large streams in our state worthy of national scenic river status. Most of the 21 miles is on Forest Service land and has been managed for float trips for several years. Landings have been constructed for the convenience of canoeists and fishermen; two of them, Moodys Landing and Fairley Bridge Landing, mark the ends of the proposed scenic river. Black Creek is probably the least controversial of Mississippi's potential scenic rivers. We hope that its designation will encourage serious studies of other candidate streams. I have discovered that Mississippi's rivers and streams provide the same type of quality wilderness experience that I have enjoyed in the past while backpacking the Rockies, Sierra and Cascades and in the lake country of the Adirondacks and Isle Royale.

Our principal disagreement with the Forest Service's recommendation for the Black Creek Scenic River is the 200-foot wide corridor it recommends. The narrow corridor is justified by the contention that people floating on the creek will not be able to see more than 200 feet beyond the banks. However, the Black Creek District Office of the DeSoto National Forest has been quietly managing a quarter-mile corridor along Black Creek for years. The decision to cut the corridor width down to 200 feet came directly from Forest Service headquarters in Washington, not from local foresters. Two hundred feet is inadequate to protection the wild, scenic, and recreational qualities of the creek for many reasons:

(1) Logging (especially large clearcuts), mining for sand and gravel, clearing for agriculture, and unrestricted construction of vacation cabins on the floodplain of Black Creek have severe ecological impacts on the flora and fauna of the stream. It is not necessary to look up over the bank to tell when I am canoeing past large clearcuts up to the bank of the creek--it widens out, choked with silt washed in during heavy rains, is blocked by logging debris and tends to become braided. Overhanging streamside vegetation is undercut and carried away.

(2) Streamside disturbances degrade the aesthetic quality of the stream. Next to clearcuts, floaters must endure semi-barren, eroded banks in the unshaded heat of the sun. Recreationists do not stay put in the creek bottom. They camp on the banks of the stream and hope to find undisturbed woods and swamps to explore.

(3) Demand for Mississippi timber is currently depressed. Even when its value increases, it may be more economically beneficial to leave a quarter mile unlogged corridor along Black Creek because of its attraction to in- and out-of-state recreationists.

(4) The National Forest Management Act of 1976 requires the Forest Service to manage all the renewable resources in a combination that best meets the needs of the American people and not necessarily the combination of uses that will give the greatest dollar return for the greatest unit output. Under the multiple use concept national forests must be managed for more than timber--fish and wildlife in a diversity of habitats, recreation and watershed protection must also be accommodated. These requirements cannot be met if clearcutting and artificial regneration of pines occurs within 200 feet of the Black Creek Scenic River.

Section 3 (b) of the 1968 Wild and Scenic Rivers Act (Public Law 90-542) states that the boundaries of national wild and scenic rivers "shall include an average of not more than three hundred and twenty acres per mile on both sides of the river." Section 8 (b) of the Act states "All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section 5, subsection (a), of this Act are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States . . . "

In his testimony before the House National Parks and Recreation Subcommittee earlier this year, Dr. Ed Cake, Chairman of the Mississippi Chapter, stated that the Sierra Club would be willing to accept a compromise on Black Creek: a corridor approximately ¼ mile wide on each side of the scenic river on Forest Service land (including any oxbow lakes and meander streams on the floodplain and the Black Creek trail if it is within ½ mile of the creek) and a 200-foot easement corridor on lands owned by private parties and the state (two one-mile-square blocks of Section 16 land, which are managed by the state Forestry Commission to provide funds for local schools).

On March 19th the House passed HR 4350, which designated the 21-mile segment of Black Creek as a Scenic River as well as several other rivers in other states. The report accompanying the bill accepts the compromise, while stressing that the 200-foot corridor on state and private land would apply only to Black Creek. HR 4350 also revises the wording of Sections 3 (b) and 8 (b) to make it clear that the boundaries of national wild and scenic rivers should "generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river."

The Mississippi Chapter of the Sierra Club favors passage of legislation similar to HR 4350 as it applies to Black Creek and is willing to accept the compromise on corridor width that the bill contains.

I thank you for the opportunity to testify before your committee. I especially want to thank Senator Cochran for introducing the Black Creek Scenic River bill to the Senate.

Senator **Evans**. Fine. Thank you very, very much for both of your pieces of testimony. I am sure that the Senators involved are very eager to move ahead on these designations and I am sure the committee will take them on as collectively as we can.

Every time you add more than one on, to a degree you add support, until finally the burden gets big enough so that you have to stop somewhere. We will have to find that if we can, that magic combination.

Thank you very much for your testimony.

Now I would like to call on Mr. John Stearns, president of Fire Island Association and Mr. Walter Reich, president of Fire Island National Seashore Advisory Board. I am only moving a little rapidly because the notice has come that we are going to have some votes over on the floor before very long and I wanted to make sure we got your testimony in before we got interrupted.

STATEMENT OF JOHN P. STEARNS, PRESIDENT, FIRE ISLAND ASSOCIATION, INC., NEW YORK, NY, ON S. 2483

Mr. **Stearns**. Thank you, Mr. Chairman, for letting me speak today on behalf of S. 2483, regardless of your heavy schedule. We much appreciate the support of Senators Moynihan and D'Amato in introducing the legislation and seeking consideration of it, as we thank Congressmen Carney and Downey for introducing identical bills in the House.

I am the president of the Fire Island Association, a confederation of 17 communities within the Fire Island National Seashore. Their elected leaders serve on our board and are joined by about 1,500 individual members who maintain year-round or summer residences on the island.

To assure permanent protection without the devastating effect of the proposed Robert Moses Road, we sought the establishment of the Fire Island National Seashore in 1964. To our lasting gratitude, Congress responded by setting up the seashore.

Earlier parks were created mainly out of existing Federal lands. Ours is part of a newer generation of accretions to the Park System which mix State and privately owned property. Our genesis was the Cape Code National Seashore in which Congress consciously opted to create public parklands around existing residential clusters, rather than to extinguish private property rights.

On Fire Island, Congress extended that experiment to encompass towns and villages with fully developed governmental and zoning structures. Under the Fire Island system, the Secretary of the Interior sets minimum standards that local ordinances must satisfy. In 1984, Congress redefined those standards in terms of environmental impact and population density rather than traditional zoning requirements that focus on setbacks and the like.

Once the Secretary approves the local ordinances which do focus on those details, private uses are exempt from condemnation. Violations can lead to condemnation of the property. The 1984 amendments also gave the Secretary power to enjoy noncomplying development, to allow for negotiation of a solution in advance of condemnation, and to mitigate the cost of condemnation if the negotiations failed.

As Senator Moynihan observed this morning, the formula seems so far to have worked quite well.

One crucial element of the Federal standards is a dune district established by another congressional amendment in 1978 to safeguard the most fragile part of Fire Island. Within that district, new construction is prohibited and rebuilding after loss or substantial damage is allowed only if it fully complies with the standards.

The dune district extends from the mean high tide line to 40 feet landward of the primary dune crest, as mapped in 1976. That boundary is being remapped this year.

In conjunction with the 1984 amendments, the House filed a report that clearly affirmed the supremacy of Federal regulation of development within the seashore. The purpose was to buttress the legislative history of your Coastal Zone Management Act of 1972 that shows that Congress intended to exclude from State jurisdiction Federal lands such as park, wildlife refuges, and military reservations.

The House of Representatives report took into account the ongoing attempt by New York State to apply to Fire Island its own Coastal Erosion Hazard Act of 1981 and the implementing regulations, adopted for the State at large under the aegis of the 1972 act.

The State mechanism is quite different and makes no provision for compensating those denied the right to rebuild.

To hurry it up—last year New York did not recognize that House of Representatives report as a sufficient affirmation of your congressional intent. Therefore, it did not exempt the seashore and we are asking you very simply today to elevate the House report into the form of language that the State cannot ignore.

Important State legislators have said that they will not oppose this effort, including Maurice Hinchey, the assembleyman who was the father of the 1981 act. I have spoken to him directly.

The last thing I'd like to emphasize is that we do not challenge State jurisdiction in general or specifically over matters such as wildlife and wetlands protection that Congress has not sought to regulate in a seashore. We merely urge that in the matter of land development within this unit if the National Park System, over which Congress expressly and uniquely exerted control in 1964, 1978, and 1984, its enactment should supersede conflicting State regulation.

We are asking you to stand up for your own system and not to fix what ain't broke.

Finally, if I may, I'd like to ask permission to introduce some letters from other Fire Island leaders, supplementing those which Senator Moynihan introduced this morning.

[The prepared statement of Mr. Stearns follows:]

STATEMENT OF JOHN P. STEARNS, PRESIDENT OF THE FIRE ISLAND ASSOCIATION BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, CONCERNING S.2483, A BILL TO AMEND THE ACT OF SEPTEMBER 11, 1964 ESTABLISHING THE FIRE ISLAND NATIONAL SEASHORE IN NEW YORK STATE

JUNE 20, 1986

THANK YOU, MR. CHAIRMAN, FOR GIVING US THIS OPPORTUNITY TO TESTIFY ON BEHALF OF S.2483. WE MUCH APPRECIATE THE SUPPORT OF SENATORS MOYNIHAN AND D'AMATO IN INTRODUCING THIS LEGISLATION AND SEEKING ITS CONSIDERATION BY THE SUBCOMMITTEE. WE ARE NOT UNMINDFUL OF THE VERY HEAVY SCHEDULE OF PENDING COMMITTEE BUSINESS, REGARDLESS OF WHICH YOU SCHEDULED THIS PROPOSAL.

FOR THE RECORD, WE ALSO SHOULD NOTE THAT A COMPANION BILL (H.R.4864) HAS BEEN INTRODUCED IN THE HOUSE OF REPRESENTATIVES BY CONGRESSMEN DOWNEY AND CARNEY, WITHIN WHOSE DISTRICTS THE SEASHORE LIES.

I AM THE PRESIDENT OF THE FIRE ISLAND ASSOCIATION, A CONFEDERATION OF COMMUNITIES WITHIN THE FIRE ISLAND NATIONAL SEASHORE. THEIR ELECTED LEADERS SERVE ON OUR BOARD AND ARE JOINED BY ABOUT 1,500 INDIVIDUAL MEMBERS WHO MAINTAIN YEAR-ROUND OR SUMMER RESIDENCES ON THE ISLAND. OUR ASSOCIATION SPRANG FROM WIDESPREAD OPPOSITION TO THE LATE ROBERT MOSES' ATTEMPT TO STABILIZE OUR ISLAND FROM EROSION BY BUILDING A MULTILANE HIGHWAY THROUGH THE PRE-ESTABLISHED COMMUNITIES AND GREAT STRETCHES OF UNDEVELOPED LAND.

TO ASSURE LASTING PROTECTION WITHOUT THAT DEVASTATING EFFECT ON NATURE, WE SOUGHT THE ESTABLISHMENT OF THE SEASHORE. TO OUR LASTING GRATITUDE, CONGRESS RESPONDED BY SETTING UP THE SEASHORE AND ENACTING SUBSEQUENT AMENDMENTS TO THE ENABLING ACT THAT WE URGED TO CEMENT AND PERFECT A MECHANISM--UNIQUE IN THIS COUNTRY--WHICH REGULATES DEVELOPMENT AND PROTECTS THE ENVIRONMENT THROUGH FEDERAL AND LOCAL GOVERNMENT COLLABORATION.

EARLIER PARKS WERE CREATED MAINLY OUT OF EXISTING FEDERAL LANDS. OURS IS PART OF A NEWER GENERATION OF ACCRETIONS TO THE PARK SYSTEM, WHICH MIX STATE AND PRIVATELY OWNED PROPERTY. OUR GENESIS WAS THE CAPE CODE NATIONAL SEASHORE IN WHICH CONGRESS CONSCIOUSLY OPTED TO CREATE PUBLIC PARKLANDS AROUND EXISTING RESIDENTIAL CLUSTERS, RATHER THAN TO EXTINGUISH PRIVATE PROPERTY RIGHTS. ON FIRE ISLAND, CONGRESS EXTENDED THAT EXPERIMENT TO ENCOMPASS TOWNS AND VILLAGES WITH FULLY DEVELOPED GOVERNMENTAL AND ZONING STRUCTURES.

UNDER THE FIRE ISLAND SYSTEM, THE SECRETARY OF THE INTERIOR SETS MINIMUM STANDARDS THAT THE LOCAL ORDINANCES MUST SATISFY. IN 1984, CONGRESS REDEFINED THOSE STANDARDS IN TERMS OF ENVIRONMENTAL IMPACT AND POPULATION DENSITY, RATHER THAN TRADITIONAL ZONING REQUIREMENTS THAT FOCUS ON SETBACKS AND THE LIKE. ONCE THE LOCAL ORDINANCES ARE APPROVED BY THE SECRETARY, COMPLYING PRIVATE USES ARE EXEMPT FROM CONDEMNATION.

VIOLATIONS CAN LEAD TO CONDEMNATION OF THE PROPERTY. THE 1984 AMENDMENTS ALSO GAVE THE SECRETARY POWER TO ENJOIN NON-COMPLYING DEVELOPMENT TO ALLOW FOR NEGOTIATION OF A SOLUTION IN ADVANCE OF CONDEMNATION AND TO MITIGATE THE COST OF CONDEMNATION IF THE NEGOTIATIONS FAIL. FURTHERMORE, THOSE AMENDMENTS PROVIDED THAT THE SECRETARY MUST SELL CONDEMNED PROPERTY IF POSSIBLE, WITH DEED RESTRICTIONS TO ASSURE FUTURE CONFORMITY, AND THAT THE PROCEEDS REMAIN AT THE PARK SERVICE'S DISPOSAL TO FUND FUTURE CONDEMNATIONS AS NECESSARY. THAT FORMULA SEEMS TO HAVE HAD THE DESIRED EFFECT OF CURBING FURTHER DEVELOPMENT THAT IS INCONSISTENT WITH THE FEDERAL STANDARDS.

ONE CRUCIAL ELEMENT OF THE FEDERAL STANDARDS IS A "DUNE DISTRICT", ESTABLISHED BY ANOTHER CONGRESSIONAL AMENDMENT IN 1978 TO SAFEGUARD THE MOST FRAGILE PART OF FIRE ISLAND. WITHIN THAT DISTRICT, NEW CONSTRUCTION IS PROHIBITED AND REBUILDING AFTER LOSS OR SUBSTANTIAL DAMAGE IS ALLOWED ONLY IF IT FULLY COMPLIES WITH THE STANDARDS. THE DUNE DISTRICT EXTENDS FROM THE MEAN HIGH TIDE LINE TO 40 FEET LANDWARD OF THE PRIMARY DUNE CREST, AS MAPPED IN 1976.

IN CONJUNCTION WITH THE 1984 AMENDMENTS, THE HOUSE OF REPRESENTATIVES FILED A REPORT (H.R. 98-1065) THAT CLEARLY AFFIRMED THE SUPREMACY OF FEDERAL REGULATION OF DEVELOPMENT WITHIN THE SEASHORE. THE PURPOSE WAS TO BUTTRESS THE LEGISLATIVE HISTORY OF YOUR COASTAL ZONE MANAGEMENT ACT OF 1972, WHICH SHOWS THAT CONGRESS INTENDED TO EXCLUDE FROM STATE JURISDICTION FEDERAL LANDS SUCH AS PARKS, WILDLIFE REFUGES AND MILITARY RESERVATIONS. HOWEVER, THE ACTUAL TEXT OF THE 1972 ACT EXCLUDED ONLY "LAND THE USE OF WHICH IS BY LAW SUBJECT SOLELY TO THE DISCRETION OF OR WHICH IS HELD IN TRUST BY THE FEDERAL GOVERNMENT..."(EMPHASIS ADDED).

THE H.R. REPORT TOOK INTO ACCOUNT THE ONGOING ATTEMPT BY NEW YORK STATE TO APPLY TO FIRE ISLAND ITS OWN COASTAL EROSION HAZARD AREA ACT AND REGULATIONS, ADOPTED FOR THE STATE AT LARGE UNDER THE AEGIS OF THE 1972 ACT OF CONGRESS. THE STATE MECHANISM ESTABLISHES A DRASTICALLY DIFFERENT ZONE WITHIN WHICH BUILDING AND REBUILDING IS PROHIBITED AND MAKES NO PROVISION FOR COMPENSATING THOSE DENIED THE RIGHT TO REBUILD WITHIN THE PROHIBITED ZONE.

HOWEVER, NEW YORK HAS NOT RECOGNIZED THE H.R. REPORT AS A SUFFICIENT REAFFIRMATION OF CONGRESSIONAL INTENT. IT HAS REFUSED TO EXEMPT THE FIRE ISLAND NATIONAL SEASHORE FROM ITS DUPLICATIVE AND CONFLICTING REGULATIONS. THEREFORE, MR. CHAIRMAN, WE RETURN TODAY TO ADVOCATE A VERY SIMPLE BUT VERY IMPORTANT FORM OF RELIEF. WE ASK CONGRESS TO ELEVATE THE H.R. REPORT LANGUAGE INTO LEGISLATION THAT THE STATE CANNOT IGNORE.

IN DOING SO, WE DO NOT CHALLENGE STATE JURISDICTION IN GENERAL, OR SPECIFICALLY OVER MATTERS SUCH AS WETLANDS PROTECTION THAT CONGRESS HAS NOT SOUGHT TO REGULATE. WE MERELY URGE THAT IN THE MATTER OF LAND DEVELOPMENT WITHIN THIS UNIT OF THE NATIONAL PARK SYSTEM, OVER WHICH CONGRESS EXPRESSLY AND UNIQUELY EXERTED CONTROL IN 1964, 1978 AND 1984, ITS ENACTMENTS SHOULD SUPERSEDE CONFLICTING STATE REGULATION.

WE SEEK NO RELIEF FROM REGULATION THAT BALANCES THE USE AND ENJOYMENT OF PRIVATE PROPERTY WITH THE PROTECTION OF PUBLIC PARK RESOURCES. RATHER, WE ASK THAT CONGRESS STAND UP FOR ITS OWN SYSTEM, WHICH BOTH AFFORDS US THE RIGHT TO RETAIN OUR PROPERTY, AS LONG AS WE FOLLOW THE RULES, AND ASSURES US DUE PROCESS IN THE EVENT THAT THOSE RIGHTS MUST BE EXTINGUISHED.

THANK YOU FOR HEARING US OUT.

8654m

VILLAGE OF SALTAIRE
SALTAIRE, NEW YORK

OFFICE OF THE MAYOR

MAILING ADDRESS:
P O BOX P 551
BAY SHORE, NEW YORK 11706
(516) 583-5566

June 7, 1986

Senator Daniel P. Moynihan
SR-464
Washington, D.C. 20510

Dear Senator Moynihan:

Thank you for joining Senator D'Amato in sponsoring the recently introduced legislation to amend the Fire Island National Seashore Act (P.L. 88-587) by adding a provision that our Association believes is urgently needed to preserve the regulatory system set up by Congress when it founded the Seashore in 1964. That system, unique within the entire National Park System, commits development on Fire Island to the joint control and regulation of the Federal Government and the pre-established local communities.

The State of New York now threatens Congress's compact with the communities by seeking to impose a drastically different regulatory system. It entered the arena in 1981 through its Coastal Erosion Hazard Area Act, responding to Congress's Coastal Zone Management Act of 1972, which called upon the States to complete the job of controlling shoreline development in areas not already under Federal Management. In the light of the Seashore Act, as amended to date, the exercise of power by New York State under the 1972 Act with respect to our National Seashore is questionable.

In 1984, another amendment to the Seashore Act rounded out and strengthened the mechanisms for enforcing restrictions on development under the joint Federal-community system. That amendment assured compatibility between the retention and use of private property within the Seashore and the protection of park resources. As you know, the House of Representatives filed a report (H.R. 98-1065) on the 1984 amendment that clearly affirmed Federal supremacy in this area:

> "The committee intends to monitor this legislation, once enacted, very closely and stands ready to take such further action as may be necessary to ensure

> that Federal jurisdiction does back up local enforcement effectively, in order to protect this unit of the National Park System. It prefers to carry out the intent of Congress in 1964, entrusting the Fire Island National Seashore to the joint regulation of the Federal Government and the Towns, rather than to add an intervening level of state regulation in this federal enclave, as envisaged for coastal areas in general by the Coastal Zone Management Act of 1972. While such Federal preemption is not specifically provided for in this case by the [1972] Act, it is consistent with the reservation of wholly Federal lands in Section 304(a) thereof."

Unfortunately, the New York State Legislature has not yet exempted the Seashore from its 1981 Act. Therefore, we greatly appreciate your efforts in having the intent of Congress, as expressed in the House Report, embodied in statutory language through the amendment that you have sponsored.

Our Village is not challenging State jurisdiction in general, or specifically over matters such as wetland protection that Congress has not sought to regulate. We merely urge that, in the limited matter of land development within this unit of the National Park System, over which Congress expressly and uniquely exerted control in 1964, 1978 and 1984, its enactments should supersede conflicting State regulation. The conflicts are serious: the State would jeopardize individual property rights protected by the Constitution and Congress's own statute, and it would extend the impacted area far beyond that defined by Congress in its 1978 amendment to the Seashore Act.

A counterpart of this letter is being sent to Senator D'Amato and to Congressmen Carney and Downey.

Sincerely yours,

Joel L. Carr

Joel L. Carr
Mayor

Ocean Bay Park Association

GERARD F. STODDARD
PRESIDENT
263 WEST 20TH STREET
NEW YORK, NEW YORK 10011

June 13, 1986

The Honorable Daniel Patrick Moynihan
United States Senate
Washington, D.C. 20510

Re: S.2483

Dear Senator Moynihan:

The Ocean Bay Park Association greatly appreciates your taking the lead once again on a matter of critical importance to Fire Islanders. Your co-sponsorship with Senator D'Amato of S.2483 to preserve the unique Federal-Township regulatory mechanism that will prevent over development of Fire Island is vital to serious consideration of this matter by the Senate and we are grateful for your support.

This bill makes possible a coordinated and logical regulatory approach to Fire Island development by those most directly concerned: the Fire Island National Seashore, the Towns of Brookhaven and Islip and individual property owners. This was the clear intent of Congress when the Seashore was created in 1964. Imposition of a third, state layer of environmental regulation under the Coastal Zone Management Act of 1972 is not only not needed; it would be harmful. Our Association has had considerable experience with the Brookhaven authorities on zoning matters. I can state that they have the careful development of their barrier beach communities very much in mind as they implement Town zoning standards, which have been endorsed (with minor exceptions now being resolved) by the Secretary of the Interior.

Again, our thanks for your leadership on this important matter.

Sincerely,

GFS:cf

cc. Henrietta Acampora, Supervisor, Town of Brookhaven
Councilman John A. LaMura
Vincent J. Donnelly, Planning Commissioner
Gerald Palermo, Board of Zoning Appeals
John P. Stearns, President, Fire Island Association
OBPA Board of Directors

June 13, 1986

Senator Alfonse M. D'Amato
SH-520
Washington, D.C.

Dear Senator D'Amato:

The Davis Park Association represents the vast majority of the 275 homeowners in our Fire Island community of Davis Park. We thank you and Senator Moynihan and Representatives Carney and Downey for introducing an amendment to the September 11, 1964 act which established the Fire Island National Seashore - S. 2483 and H.R. 4864.

Through the years we have strongly supported measures that ensure the protection of the Seashore. We have participated in the development of zoning ordinances and federal zoning standards which guarantee one family residence zoning in the seventeen island communities. We have, as a matter of fact, recented completed legal action that prevented the conversion of two one family homes to multiple use. Further, we support federal measures that reasonably protect the dune structure on Fire Island against abuse.

The introduction of regulations by New York State's Department of Enviornmental Conservation, long after appropriate regulations are already in place threatens to overturn the advances made by years of cooperation on the federal and local level. State regulations would, we are certain, create far more problems than they would solve.

We are grateful to each of you for your support in advancing the proposed amendment.

Yours sincerely,
DAVIS PARK ASSOCIATION INC.

Louis J. Pennachio
President

cc: Senator Daniel P. Moynihan
Congressman William Carney
Congressman Thomas J. Downey

DAVIS PARK ASSOCIATION • DAVIS PARK, NEW YORK 11772

POINT O'WOODS ASSOCIATION
POINT O'WOODS
NEW YORK
11706

PHONE
516-583-5660

YOLANDO VANNONI JR.
GENERAL MANAGER

June 16, 1986

Senator Daniel Patrick Moynihan
SR - 464
Russell Senate Office Building
Washington, DC 20510

Dear Senator Moynihan:

Thank you for introducing, along with Senator D'Amato, a bill (S-2483) that would amend the Fire Island National Seashore Act (PL 80-587) to deal with the problem of conflicting State and Federal regulations pertaining to the Fire Island Seashore.

The uncertainty of conflicting regulations has been a great source of annoyance and concern to all Fire Island communities and their residents. Making the Federal regulations exclusive in cases of conflict will put this matter to rest once and for all, without foreclosing the State from exercising its other responsibilities.

Point O'Woods Association and its residents appreciate your efforts on this matter. We stand ready to assist you or your staff in order to assure passage of this legislation.

Sincerely,

Donald Reich

Donald Reich
President

Senator EVANS. Mr. Reich.

STATEMENT OF WALTER C. REICH, PRESIDENT, FIRE ISLAND NATIONAL SEASHORE ADVISORY BOARD, SAYVILLE, NY, ON S. 2483

Mr. REICH. Good day, Mr. Chairman. My name is Walter C. Reich. I'm president of the Fire Island National Seashore Advisory Board. FINSAB is composed of 16 member organizations representing approximately 5,000 local residents, both on Long Island and adjacent Fire Island. These groups consist of year-round residents, businessmen, and sport fishermen, all with some interest in Fire Island and in maintaining the Federal Seashore in its present state as a joint partnership of Federal, local and private interests.

Today, we join with the Fire Island Association and all other organizations in support of S. 2483. We thank Senators Moynihan and D'Amato and Congressmen Carney and Downey for responding to our request for help, and we thank you for your willingness to review this proposal so promptly.

In the interests of saving time and not repeating other testimony you've heard today, I only want to make three points.

First, S. 2483 has very broad community support. Our members work and live in the island communities. We depend on this park for our livelihoods, our recreation and as a protector from ocean storms. We support its protection and efforts to maintain its integrity.

Two. As local citizens, Congress allows us to have a voice in making the regulation. With all due respect, we prefer to have the decisions made locally so we can stay abreast of them. In our opinion, the partnership between the Park Service and local government for controlling development is logical and proper. We think that with your help, we have a feasible process developed and we should give it a chance to work.

Three. Finally, as a property owner myself, both on Fire Island and adjacent Long Island, I understand that I can't do everything that I please with my property. However, I find no need for two different sets of rules, two different dune districts, with two different boundaries and two different sets of criteria to establish those two different boundaries. And if that's not bad enough, I am also faced with the threat that someone might take my property without compensation.

I find all of this intolerable. You have set up a rulemaking system that we all agree is fair. Now, please make it clear that that is the system and those are the rules that will be followed.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Reich follows:]

Fire Island National Seashore Advisory Board

30 WEST WOODSIDE AVENUE
PATCHOGUE, N.Y. 11772

Davis Park Businessman's Association
Fire Island Contractors
Fire Island Pines Businessmen's
Association
Fire Island Residents United
Fire Island Year Round Residents
Association
Great South Beach Mobile Sportfishermen
Long Island Beach Buggy Association
Long Island Modulators
Patchogue Fishing Club
Pattersquash Gun Club
United Mobile Sportfishermen
4 x 4 Islanders of Suffolk County
North Shore Anglers
Great South Bay Anglers Club
Fire Island Smallbusinessmen's
Association
Constitutional Rights Committee
of Kismet

June 20, 1986

re: S. 2483

Good day Mr. Chairman. My name is Walter C. Leich, I'm president of the Fire Island National Seashore Advisory Board. F.I.N.S.A.B. is composed of 16 member organizations representing approximately 5000 local residents both on Long Island and adjacent Fire Island. These groups consist of year-round residents, businessmen, and sportsfishermen, all with some interest in Fire Island and in maintaining the Federal Seashore in it's present state as a joint partnership of Federal, local, and private interests.

Today, we join with the Fire Island Association and all other organizations in support of S. 2483. We thank Senators Moynihan and D'Amato, and Congressmen Carney and Downey for responding to our requests for help, and we thank you for your willingness to review this proposal so promptly.

In the interest of saving time and not repeating other testimony you will hear today, I only want to make 3 points.

1. S.2483 has very broad community support. Our members work and live in the island communities. We depend on this Park for our livelihoods, our recreation, and as a protector from ocean storms. We support it's protection and efforts to maintain it's integrity.

2. As local citizens, Congress allows us to have a voice in making the regulations. With all due respect, we prefer to have the decisions made locally so we can stay abreast of them. In our opinion, the partnership between the Park Service and local government for controlling development is logical and proper. We think that with your help, we have a feasible process developed and we should give it a chance to work.

(over)

3. Finally, as a property owner myself, both on Fire Island and adjacent Long Island, I understand that I can't do as I please with my property. However, I find no need for 2 different sets of rules, 2 different dune districts with 2 different boundaries and 2 different sets of criteria to establish those 2 different boundaries, and if that's not bad enough, I'm also faced with the threat that someone might take my property without compensation. I find all of this intolerable. You have set up a rule-making system that we all agree is fair. Now please make it clear that that is the system and those are the rules that will be followed.

Thank You,

Walter C Reich

Walter C. Reich President-F.I. [illegible]

Senator EVANS. Thank you, Mr. Reich. In fact, as you listed those two different sets all the way through and the fact that someone could take your property without compensation, you were remarkably calm in you testimony. I am sure you felt more intensely than that, but we do appreciate the testimony of both of you, your patience to last through a hearing that necessarily had to be interrupted, and I think that gives you several extra points in terms of our action on the legislation.

I am sure you will have continued strong support from your Senators and we will try to seen how promptly we can move it through the system.

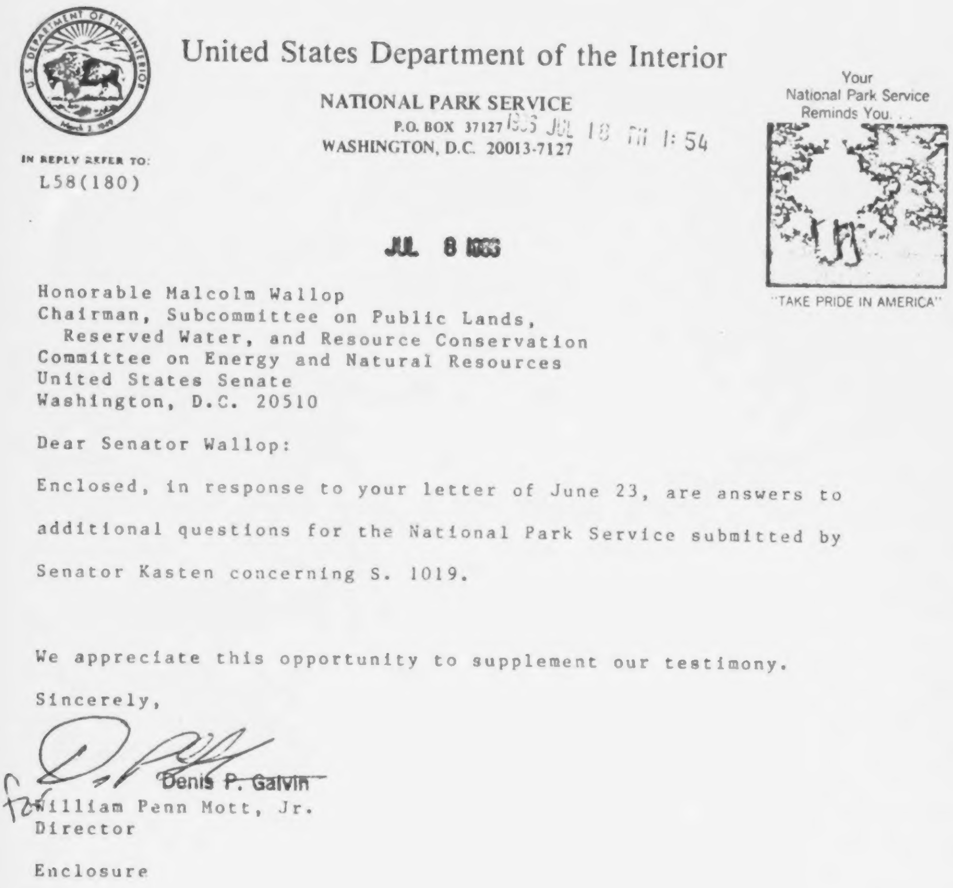
The hearing record will remain open for 2 weeks for any further testimony or additions people may want to make on this or any of the other bills. With that, this hearing is adjourned.

[Whereupon at 2:30 p.m. the hearing was adjourned.]

APPENDIXES

APPENDIX I

RESPONSES TO ADDITIONAL COMMITTEE QUESTIONS



United States Department of the Interior

NATIONAL PARK SERVICE
P.O. BOX 37127
WASHINGTON, D.C. 20013-7127

1989 JUL 10 PM 1:54

Your
National Park Service
Reminds You. . .

"TAKE PRIDE IN AMERICA"

IN REPLY REFER TO:
L58(180)

JUL 8 1989

Honorable Malcolm Wallop
Chairman, Subcommittee on Public Lands,
  Reserved Water, and Resource Conservation
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Wallop:

Enclosed, in response to your letter of June 23, are answers to additional questions for the National Park Service submitted by Senator Kasten concerning S. 1019.

We appreciate this opportunity to supplement our testimony.

Sincerely,

Denis P. Galvin
for William Penn Mott, Jr.
Director

Enclosure

QUESTIONS TO BE ASKED OF THE PARK SERVICE ON BEHALF OF SENATOR KASTEN

Question 1. Isn't Long Island closer to Park Service headquarters than the other islands, making it less expensive and easier to patrol?

Answer. Long Island may be somewhat closer in straight line distance to Park Service headquarters on the mainland than the other islands within the national lakeshore. However, it is so far removed from the other islands which we currently administer, that to patrol Long Island would require a separate 8 or 10 mile one way boat trip, which would not necessarily be cost effective.

Question 2. Do you find the unique cultural and natural resources on Long Island to be a significant supplement to the Apostle Islands National Lakeshore?

Answer. We understand that the island was the site of French trading posts and forts, but we have no detailed information on the cultural resources that may remain. The island is a habitat for the threatened species of shore bird, the piping plover, and therefore should be protected. We believe the island is worthy of conservation efforts, perhaps at the State or local level, but it is not necessary to fulfill the purposes of the lakeshore.

Question 3. In the event of Federal land exchanges between the Bureau of Land Management and the Forest Service, wouldn't Long Island be afforded greater protection under the ownership and management of the National Park Service?

Answer. Not necessarily. As part of the National Park System, Long Island would by law be managed for the protection and interpretation of its natural and cultural resources. Under Bureau of Land Management or Forest Service administration, it would be managed under principles of multiple use, which could include protection and interpretation of its resources administratively.

United States Department of the Interior

NATIONAL PARK SERVICE
P.O. BOX 37127
WASHINGTON, D.C. 20013-7127

IN REPLY REFER TO:

L58(180)

Honorable Malcolm Wallop
Chairman, Subcommittee on Public Lands,
Reserved Water and Resource Conservation
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Wallop:

In response to your letter of June 26, enclosed are our answers to questions submitted by Senator Bradley concerning S. 2287, legislation to designate the Great Egg Harbor River in New Jersey for study as a potential unit of the Wild and Scenic Rivers System, on which we testified at the hearing before your Subcommittee on June 20, 1986.

We appreciate this opportunity to supplement our testimony.

Sincerely,

Denis P. Galvin
for William Penn Mott, Jr.
Director

Enclosure

QUESTIONS FOR DENIS P.GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, SUBMITTED BY SENATOR BRADLEY

Question 1. Mr. Galvin, I am interested in the National Park Service program which provides technical assistance to the citizens along the Great Egg Harbor River (GEHR). Would you please explain how it works.

Answer. The National Park Service is authorized, under the provisions of section 11 of the Wild and Scenic Rivers Act (P.L. 90-542, as amended) to provide technical assistance to state and local governments and private groups in the preparation of river conservation plans.

Several NPS regional offices across the nation have active river conservation assistance programs, including the Mid-Atlantic, Southeast, Rocky Mountain and Pacific Northwest regions.

River projects range in size from statewide river inventories to site-specific plans and designs for a single stream corridor or an urban waterfront. All projects must, however, meet certain criteria: A cooperative partnership must exist among state and local governments and private groups; they must include some form of cost-sharing arrangement among cooperators; and they should include opportunities for public involvement. Projects proposed on river segments listed on the Nationwide Rivers Inventory (a comprehensive listing of rivers recognized for their high quality resources) are given the highest priority.

In July 1985, Congressman Hughes of New Jersey, on behalf of private citizens and local government officials, requested our Mid-Atlantic Regional Office to assist in the identification of alternative methods for conserving the Great Egg Harbor River.

In response to that request Regional Office staff held approximately 12 meetings with local town officials and concerned citizens. They provided information on the Wild and Scenic Rivers Act and answered questions about ways in which local governments could conserve river resources.

Question 2. Is it true that there is no Federal ownership of land along the Great Egg Harbor River? Who does own the land?

Answer. The Federal Government does not own any land along the river. Most of the Great Egg's corridor is in private ownership. Small portions of the 60-mile mainstream corridor are owned by the State and county governments.

Question 3. Isn't it true that the Federal Government has committed a substantial amount of time and resources to promote the wise use and conservation of the GEHR and the surrounding Pinelands? Please explain the Government's involvement.

Answer. Over 39 miles of the Great Egg Harbor River, from Great Bay to south of May's landing; from Weymouth to the Atlantic City Expressway; and from New Brooklyn Lake to the Pennsylvania-Reading Railroad crossing were identified as potential components of the National Wild and Scenic Rivers System in 1981 and have been listed on the Nationwide Rivers Inventory by the National Park Service. The Inventory, a systematic evaluation of undeveloped, free-flowing rivers, identifies river areas which may be eligible for further study and/or designation as part of the National System.

Section 502 of the National Parks and Recreation Act of 1978, that established the Pinelands National Reserve, authorized the Secretary of the Interior to provide funding for planning and for land acquisition in the Pinelands National Reserve, an ecologically and culturally significant area in southern New Jersey. The total funding level authorized was $26 million, all of which has been appropriated. All funds were 75% Federal-25% State matching funds. The Act requested that the Governor of New Jersey create a Pinelands Commission to develop a plan and to serve as the agency responsible for land use control and management of the Pinelands. The Commission was formed as provided in the Act as follows: Seven members appointed by the Governor, one member appointed by the governing body of each of the seven counties in the Reserve, and one member appointed by the Secretary of the Interior, for a total of fifteen. The Secretary recently appointed the Regional Director of the Mid-Atlantic Regional Office as his representative on the Pinelands Commission. The Commission completed development of the Comprehensive Management Plan for the Pinelands in 1980. The Plan was approved by the Governor and by the Secretary of the Interior in 1981 and has been in effect since. A total of $19,683,500 in grants has been made available pursuant to the 1978 Act for planning and land acquisition.

The National Park Service Mid-Atlantic Regional Office has been delegated responsibility to fulfill the obligations of the Department of the Interior with respect to the Reserve, including providing technical assistance to the State, monitoring implementation of the Plan, providing staff support to the Secretary's activities in the Reserve, and administering the grants program.

Question 4. The Administration opposes S. 2287 because of the lack of Federal land and the potential for Federal land acquisition and management of the river. Since the Federal

Government does not have the authority to acquire land or manage a river while it is being studied for possible Wild and Scenic designation, why does the Administration have objections to this legislation, which is a bill to study the river, not to designate it?

Answer. Since the Administration would not support Federal acquisition and management of land along the river, the Administration sees no need for a Federally funded study.

Question 5. If a river is deemed to merit inclusion in the Wild and Scenic Rivers System, aren't there a variety of alternatives identified for protection of the river, one of which might call for Federal management, while others might call for State or local protection as a preferred alternative? Please explain.

Answer. The Wild and Scenic Rivers Act does require that each study report include the extent to which it is proposed that the administration of the river, including the cost thereof, be shared by State and local agencies. However, the Administration believes that any such study should be done by the State or local agencies concerned.

Question 6. Is it the Administration's intent to not support a wild and scenic study or designation bill unless there is a substantial amount of land along the river under consideration which is already in Federal ownership? How do you interpret the language of the Wild and Scenic Rivers Act of 1968 on this issue?

Answer. The Administration as a matter of policy would not support legislation proposing study or designation of a component of a river as a potential component of the Wild and Scenic Rivers System, where to do so would encourage additional Federal land acquisition.

Question 7. If it is the intent of the Administration to oppose river study or designation bills because of little or no Federal land holdings, would you then explain a letter dated July 7, 1983, signed by former Interior Secretary James Watt, which accompanied the Wild and Scenic Study for the Colorado and lower Delores Rivers in Colorado and Utah?

The letter did not recommend a Federal designation in part, because:

> "...approximately 79 percent of the Colorado River segment is in Federal and State ownership and approximately 88.5 percent of the Delores River is in Federal ownership, therefore the natural values of the river can be provided substantial protection without additional expenditures."

It seems that a Catch-22 exists here. On the one hand, if too much land is in Federal ownership, it does not qualify for wild and scenic designation because the Government can protect it adequately without a formal designation. On the other hand, if there is not enough land in Federal ownership, river protection becomes the responsibility of some other Governmental entity. Is there some established percentage of Federal land ownership required before a river can qualify for study or designation? Please comment.

Answer. There is no particular percentage of Federal land ownership required before the Administration would support legislation proposing study or designation.

Question 8. Earlier this Congress, legislation was introduced to study a segment of the Farmington River in Connecticut and Massachusetts for potential inclusion in the Wild and Scenic Rivers System. There are a striking number of similarities between the Farmington and the GEHR. Both rivers are listed on the nationwide rivers inventory; both have a constituency which strongly supports protection of the river; both have a variety of natural, cultural, and historic values which should be protected, and neither has any Federal land along the section of the river in the study legislation. Please tell me why the Adminstration did not oppose the Farmington River study bill, while it does oppose the Great Egg Harbor River study bill.

Answer. It is true that both the West Branch Farmington and the Great Egg Harbor Rivers were identified in the National Park Service 1982 Nationwide Rivers Inventory as river segments that would potentially qualify for designation as components of the National Wild and Scenic Rivers System. However, it was felt that, inasmuch as the State of New Jersey was already involved in protecting and managing the Pinelands National Reserve, it would be more appropriate for the State to develop alternatives for river preservation for the Great Egg Harbor River. No such preexisting and extensive State involvement was shown for the Farmington River. Accordingly, the Administration stated its position as no objection to the enactment of the Farmington River study bill.

APPENDIX II

Additional Material Submitted for the Record

STATEMENT BY GERALD GROSWOLD
PRESIDENT, WINTER PARK RESORT, COLORADO
SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER
AND RESOURCE CONSERVATION
UNITED STATES SENATE
S. 2266
JUNE 20, 1986

My name is Gerald Groswold. I am the President of Winter Park Resort located in Winter Park, Colorado. I have been in the ski business all my life. During most of this period, I have been associated with ski areas on the National Forest.

I am here to support S.2266, The National Forest Ski Area Permit Act of 1986. I want to take this opportunity to thank those members of the Committee who joined with other members of Congress to introduce this bill which I feel will assist ski areas on the National Forest. I represent as well the National Ski Areas Association. I would also like to advise the Committee that the Colorado ski association, Colorado Ski Country USA, supports this bill.

Our purpose here this morning is to give the Committee a good understanding of ski area permits, how they work, how they are obtained, the costs associated with having one, and the problem areas. At the outset, I would like to briefly explain how a permit for a new ski area or major expansion of an existing area is issued, and will continue to be issued after enactment of S. 2266.

Pursuant to the National Forest Management Act, each Forest must identify the demands on the Forest for recreational use which, of course, includes winter recreation. The Forest Plan contains a description of anticipated recreation demand as well as proposed response to that demand. This response identifies possible new ski sites and expansion sites on the Forest. There is, as we are now evidencing, a tremendous amount of public imput into the forest planning process. The Draft and Final Forest Plans serve as a public disclosure of the current thinking of the Forest with respect to all of the issues discussed in them. As you know, the planning process takes a great deal of time to complete and has involved virtually every interested party concerned with utilization of the National Forests. In many cases, there has been so much public interest in the plans that supplemental draft plans have been prepared. With respect to skiing, the plan contains a very comprehensive statement of skier demands on the Forest, as well as what one might expect the forest to allocate in the ten year planning cycle in the way of land to be developed for skiing.

We thus feel that ski area development for the foreseeable future can be readily determined by looking at the plan. Without the amendment of the Forest Plan certainly no "new" ski area, (i.e. one that is not identified in the plan), or major expansion can take place. The public can therefore review each Forest Plan and determine the ultimate maximum development that could occur within the Forest during the planning cycle and can identify potential ski sites that might be developed in future cycles.

In addition, the land use plan is only the first step in the very long and complex process that may or may not culminate in issuance of a new ski area permit, or a permit for expansion. With respect to any particular ski area proposal, a ski area proponent must first make an application to build or expand a ski area with the District Ranger. Pursuant to the Code of Federal Regulations and Forest Service policy the application must fully disclose significant information with respect to the proponent, including the proponent's financial ability, technical ability and ownership. In addition, the proponent must give a complete and detailed description of the intended development, which of course must be in compliance with the Forest Plan. Once the application is complete, and deemed so by the District Ranger, the District will seek study authorization from the Region to begin the study process.

A major expansion for an existing ski site begins essentially in the same manner as building a new ski area. Upon the request of the permittee to expand, a determination as to the correct course of action (i.e. to prepare an EIS, EA etc.) to take in order to comply with the National Environmental Protection Act is made by the Forest Service.

In Colorado the environmental review phase of a project also brings into effect the so-called Joint Review Process. The Joint Review Process requires the Forest Service to work with state, county, and local governments from the very beginning. Typically the Forest Service will contact each of these government entities to advise them of the beginning of an Environmental Impact Statement on a proposed project. The Forest Service will then enter into a Memorandum of Understanding between themselves, the proponent, and representatives of the state, of the county, and of the local government. The proponent will generally make a presentation to this group including pertinent information found in the application and a complete description of the intended project.

The scoping process which follows, allows all concerned parties to enter specific comments on areas of interest and concern which they feel should be addressed by the EIS. All of these issues then will be dealt with during the course of the study.

prior to the scoping process, a decision is made regarding who will pay the EIS and other costs. The Forest Service will either enter into a Memorandum of Understanding and Collection Agreement with the proponent of the ski area to pay for all the costs associated with the work to be done to include Forest Service staff participation, or will make a budget request and wait for an allocation of funds to do the work. It is difficult to estimate the average cost of an EIS for a ski site but typically one might expect to pay approximately $500,000 or more. With today's shrinking federal budget, most of this work is paid for by the ski area proponent.

Concurrent with this process the ski area proponent must also engineer and present to the Forest Service the actual development that will take place. This includes the complete study and planning for lift placement and ski run development along with other improvements necessary for the operation of a ski area.

Forest Service policy also requires the submission of a long term "Master Plan" which includes the final description of improvements which might be placed on the land if the area is ever developed to its full potential, along with technical data supporting such issues as capacity of the facility and a complete description of the area's operating procedures.

As you can see, the current ski area permitting process is a lengthy and costly one that is required by numerous laws and policies. Nothing in S.2266 changes this process. The ski industry does not seek to modify the permit approval process in any way with its support for S.2266. Mr. Chairman, that concludes my portion of our statement.

-·/-

MERRILL & RING INC.
P.O. BOX 1058 PORT ANGELES, WA 98362 (206) 452-2367

June 17, 1986

Senator James A. McClure, Chairman
U.S. Senate Energy and Natural Resources
Sub Committee
308 Dirkson - Senate Office Building
Washington, D.C.

RE: S 2351

Dear Mr. Chairman:

We have supported this bill since its inception and specifically as it relates to inclusion of a 211.7 acre parcel of our fee ownership near Lake Crescent. At the outset we recognized (and still do) the need for an unimpaired drive around the lake to Solduc Hot Springs, particularly since this facility and its access are being upgraded.

So we entered negotiations last year willingly to arrive at a fair price and method of payment. Since then, however, we have been frustrated by the bureaucracy and its inability to respond in a timely manner to our needs.

Since early last year we have been involved in the process including a review of ONP appraisals, cruising and timber appraisals of our own, land evaluation by a certified appraiser, and numerous contacts and conferences with Park personnel. To this date we have not reached agreement on anything, either price or an assured method of payment. Frankly we are concerned that we will be surrounded by a Park expansion and then be unable to extract timber values or sell property in a normal, businesslike manner.

Senator James McClure
RE: S 2351
June 17, 1986
Page 2

So we recently made a counter offer which is still open. (Copy enclosed) We will act soon and commence logging in order to recover at least timber values in advance of any legislation which could dictate otherwise.

Please be assured, we prefer to negotiate a sale, not log, but to date, this appears almost impossible.

Yours truly,

Merrill & Ring, Inc.

Glenn Wiggins
Vice President

Enclosure

cc: ONP, Port Angeles, WA
Rick Wagner

GWmlm

MERRILL & RING INC.
P.O. BOX 1058 PORT ANGELES, WA 98362 (206) 452-2367

June 5, 1986

Mr. Rick Wagner
83 King Street
Suite 212
Seattle, WA 98104

RE: ONP Acquisition

Dear Mr. Wagner:

We have received your offer and wish to submit the following counter offer based on values recovered from an adjacent parcel.

Timber $490,607

Land
209.3 @ 850 = 177,905
2.4 @ 7800 = 18,720
$687,232 = 687,000

Your form 10820 is enclosed as amended.

Our letter of May 19, still applies and these conditions must be met as to price and payment guarantees.

In the event you are unable to respond in a timely manner, we will have no alternative but to begin harvesting the timber.

Yours truly,

Merrill & Ring, Inc.

Glenn Wiggins
Vice President

Enclosure

cc: Robert Chandler, ONP, Port Angeles

FORM 10-820
(3/77)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

NPS AREA Olympic National Park
TRACT NO. 1 & 2
CONTRACT NO.

CORPORATE OFFER TO SELL REAL PROPERTY

VENDOR(S): M & R TIMBER, INC., A WASHINGTON CORPORATION ALSO APPEARING OF RECORD AS MERRILL & RING, INC.

THIS OFFER CONSISTS OF THE TERMS AND CONDITIONS INCLUDED ON BOTH SIDES OF THIS FORM AND ANY ATTACHMENTS EXPRESSLY MADE A PART HEREOF.

The undersigned, hereinafter called the Vendor, in consideration of the mutual covenants and agreements herein set forth, offers to sell and convey to the United States of America and its assigns, the fee simple title to the following described land, with the buildings and improvements thereon, and all rights, hereditaments, easements, and appurtenances thereunto belonging.

The real property which the Vendor agrees to convey to the United States of America is located in:
County Clallam State Washington Acreage 211.70 acres, more or less
Described as follows:

See Exhibit "A", attached hereto and by reference made a part hereof.

The Vendor covenants and agrees to convey to the United States of America the fee simple title to the above-described land subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; and subject to the following outstanding rights in third parties: (If none, so state) People's Nat'l Bank of Wash. - Mortgage dated 10/20/83

The Vendor specifically reserves and excepts the following rights and interests in the above-described property: (If none, so state)

NONE

* (1) Provided that the Vendor receives communication accepting this offer along with an agreed method of payment by July 15, 1986, and, in addition, receives a commitment to pay for the property in full no later than Dec. 31, 1986.

The terms and conditions of this offer are as follows:

(1) The Vendor agrees that this offer may be accepted by the United States through any duly authorized representative, by delivering, mailing, or telegraphing a notice of acceptance to the Vendor at the address stated below, at any time within ~~twenty four~~ (~~24~~) * month(s) from the date hereof, whereupon this offer and the acceptance thereof become a binding contract.

(2) The United States of America agrees to pay to the Vendor for said land the sum of SIX HUNDRED EIGHTY SEVEN ~~FIVE HUNDRED THIRTY SEVEN~~ THOUSAND AND NO/100------------------------- Dollars ($687,000.00 ~~537,000.00~~), (Continued on reverse side)

IN WITNESS WHEREOF, MERRILL & RING, INC., the said Vendor, has caused its Corporate Seal to be hereto affixed and these presents to be signed in its name and behalf by

RICHARD STROBLE, its duly authorized VICE PRESIDENT & GENERAL MANAGER,

and the same to be duly attested by GLENN WIGGINS.

Its VICE PRESIDENT, this 3 day of JUNE, 1986.

as authorized by E. PETER GARRETT - CHAIRMAN

Notice of acceptance of this offer is to be sent to:

Merrill & Ring, Inc.
P.O. Box 1058
Port Angeles, WA 98362

By (SEAL)

Attest: B R Wiggins

The foregoing offer of the Vendor is hereby accepted for and on behalf of the United States of America this

THE UNITED STATES OF AMERICA

By

day of , 19

(Name and Title)

COPY 1 - ORIGINAL

TESTIMONY OF THE
BAD RIVER BAND OF LAKE SUPERIOR
TRIBE OF CHIPPEWA INDIANS
ON SENATE BILL NO. S. 1019
WHICH WOULD INCLUDE LONG ISLAND AS
PART OF THE NATIONAL LAKE SHORE

ROBERT BENDER, TRIBAL CHAIRMAN
FOR THE BAD RIVER BAND
DATED JUNE 26, 1986

TESTIMONY

The Bad River Band of Lake Superior Tribe of Chippewa Indians is a federally recognized Indian Tribe located in northern Wisconsin. Our reservation boundaries are adjacent to the area known as Long Island. Long Island is attached at times by land (depending on the water level of Lake Superior) to Chequamegon Point, which is and has been important to the history and culture of our people. On the other side of the Point are the Kakagon Sloughs which are located within the exterior boundaries of our reservation. The Kakagon Sloughs are located in the National Register of National Landmarks and are recognized as being one of the most natural and pristine wetlands in the country. This area is abundant in wild rice, fish and water fowl all of which are important to the lifestyle of the people of Bad River.

We believe it is important for you to realize the importance of this area not only to our people, but also to the many life forms who depend on the Island and the Point for habitat and sustenance requirements. We are currently not opposing the addition of Long Island to the National Lakeshore. We have discussed our concern with those who are interested in incorporating this area into part of the National Lakeshore. We have been verbally assured that our interests will be protected. We are asking you to ensure that this will be so. We are not opposed to, and certainly support the conservation aspect of the Long Island area and its natural attributes. However, we are opposed to any commercialization of this area. We do not want to see an influx of people and boat traffic into this area which would destroy the unique habitat (which currently is a nesting place for the endangered piping plover). In addition, since this area is immediately adjacent to the Kakagon Sloughs and the Bad River Reservation (and at times connected to the Reservation by land), we would like to see that all efforts are made by the National Park Service to ensure that the unique and natural quality of this area are preserved.

Thank you for your consideration of this matter.

Robert Bender
Robert Bender,
Bad River Tribal Chairman

1613 N Chippewa Drive
Rhinelander, WI 54501
715-369-3094
May 14, 1986

Senator Malcolm Wallop, Chairman
Sub Committee on Public Lands,
Reserved Water and Resource Conservation
Room 308 Derksen Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Wallop:

This letter is in regard to S 1019, a bill to attach Long Island to the Apostle Island National Shoreline. Members of my family who are the principal private landowners on the Island have requested that I convey our concerns regarding S 1019 to you. Unfortunately, due to travel costs and work commitments, we cannot be personally represented at your subcommittee hearing on this bill. We trust that you will share this letter with the other committee members.

This land represents three generations of our family heritage. The loss of one of our members in a boating accident while enroute to the island this spring has not deminished our resolve to keep the property for his kids and ours. We have been offered life tenure, but the cost combined with the loss of privacy and restrictions on use make this a very unatractive alternative to ownership.

We believe that if you will consider the following two points, you will agree that this bill should not receive your support:

Project Cost

The park Service has done an informal appraisal of $106,000, for our property. That calculates out to approximately $10 per frontage foot. Comparable sand beach lake frontage will cost us from 10 to 20 times that amount. We are convinced that this appraisal was deliberately kept low by individuals who wish to promote the passage of this bill. We think you should be aware of the true cost of this proposal.

The Piping Plover

Lake Superior has always been a secondary nesting ground for the Piping Plover. The primary nesting areas are in the Northeastern Seaboard and the North central prairie states.

Senator Malcolm Wallop, Chairman
May 14, 1986
Page 2

Historically no more than three nesting pairs have been documented on Long Island. In recent years the numbers have been one or none. Each plover nest requires a large territory of non-vegitated sand. An ordinary beach is not wide enough to suffice.

Ten years ago, a land bridge formed between the Island and the mainland over the sand bars that had been the Plover's traditional nesting area. Preditors such as fox and skunk moved in from the mainland and vegitation began encroaching from both directions. Vegitation of the old nesting area is now nearly complete. Ironically, Park Service practices have increased gull populations in the area resulting in additional predation and disturbance of the Plover nests. The exterpation of the Piping Plover may already be complete and Park Service Protection will not change that.

The above should raise some questions regarding the best location to spend taxpayers dollars for Piping Plover preservation. Our governor has recommended adoption of this bill as long as you are willing to pay for it. Until this bill was introduced, the state set such a low priority on this project that they wouldn't even take the time to propose a land management plan much less put up state money for acquisition. We hope that you will do the same.

Attached is a copy of my testimony before The House Sub Committee on National Parks. I hope you will find it to be informative.

Thank you for your time and consideration.

Sincerely,

Archie M Wilson

Archie M. Wilson

nmw
Enc.

Interior and Insular Affairs
Sub Committee on National Parks
Honorable Bruce F. Vento, Chairman

Regarding H.R. 2182
99th Congress Ist Session

June 11, 1985

In Opposition
Mr. Archie Wilson, Rhinelander, WI
(for himself and property owners on Long Island)

Archie Wilson
1613 N. Chippewa Dr.
Rhinelander, WI 54501
(715) 369-3094

Mr. Chairman, Members of the Committee, Thank you for giving me an opportunity to discuss House Bill 2182 with you.

I am here as the representative of my wife, Sondra, and her brothers, William and John Sivertsen, who jointly own 67 acres on the South end of Long Island. I am also representing Mr. Lawrence LeBel who owns 36 acres near the north end. The balance of the island is in Federal ownership.

Both families have occupied this land for generations. We are not newcomers bent on profit or distruction. The land is part of our heritage and family tradition. We want nothing more than to be allowed to pass these properties on to our children and grandchildren.

We, the involved land owners, are unanimously opposed to this bill for the following reasons:

1. As property owners, we believe that our rights should not be taken without a clear and overwhelming demonstration of public need. No such need exists.

2. As concerned taxpayers, we believe that the Park Service has not and cannot justify this acquisition based on the present or future overcrowding or lack of opportunity within the existing park, nor on the need to complete ownership within an established property boundary.

3. As Environmentalists, we believe that increased recreational use of the island will destroy its ecosystem and is in direct conflict with the stated goal of bird preservation. We also believe that the bill is flawed and thus will not protect critical nesting areas.

Seventeen years ago, Congressman Wayne Aspinal, Chairman of the House Interior Committee, recommended that Long Island not be included in the original park proposal because of its distance from the rest of the islands and because it is completely seperated from the rest of the park by the highly developed and much larger Madeline Island. Congressman Aspinal's recommendation still makes good sense and is consistant with President Reagan's desire to develop and improve the parks instead of unnecessarily expanding them.

The proponents of this bill would have you believe that there is widespread public support for this bill. The fact is that there has been only one local public meeting on this subject. A newspaper account of that meeting is attached. It is interesting to note that while many spoke against, only one spoke in favor of this bill.

In the attachments to this paper I have discussed the reasons that have been publicly stated for supporting this bill. These reasons include the following:

1. Prevent the sale of surplus federal lands on the island to private developers.

2. Enhance recreational opportunities by the development of boat facilities and a day use area on the island.

3. Restore the lighthouse buildings.

4. Provide for the geological study of barrier island formation.

5. Increase use of local marinas including the proposed Ashland marina.

As indicated in the attached discussion these reasons for supporting this bill are without substance and some will result in environmental degradation.

Only one of the reasons given in favor of this bill has any merit. That is the preservation of the Piping Plover. This bill will not accomplish that goal and will in fact lead to the destruction of the species in the area. Mr. Sumner Matteson, the D.N.R. researcher, who discovered the bird on the Island 10 years ago and who has continued to monitor its progress since then, stated at a recent forum in Ashland that the critical nesting area is located in the uncharted lands to the south of the island, Sections 20 and 21, and continues onto Chequamagon Point, Sections 28 and 29, and possibly further south. In other words, the critical habitat is outside of the proposed park boundary.

Before you start ammending this bill to include even more private lands, please consider this alternative. For 10 years, Mr. Matteson has been recommending that a land use agreement be drafted with the owners to exclude people from the nesting area during the two month nesting period. To date no Federal or State Agency has come forward with such a proposal. Land on Chequamagon Point sold for $1500 per acre in 1981. Depending on how much is taken, a land use agreement could save $250,000 or more in acquisition costs and save the owners from the horror of federal land condemnation. Give us the time and the opportunity to negotiate such an agreement.

We have one final recommendation. That is that you consider leasing the federal lands on the island to the Sigurd Olson Environmental Institute of Northland College at Ashland, WI. Not only would this give a shot in the arm to a worthy and deserving institution, but it would also provide for the learning experiences and the environmental preservation desired by the sponsors of this bill.

In summary, Long Island is not an essential addition to the park and its location is well out of the existing park boundaries. The island is too small and environmentally sensitive to accommodate expanded recreational usage and any attempt to develop the property would create enormous people management problems for the Park Service. Most important, the bill will not protect the piping plovers because it does not include the critical nesting area.

One final thought, Mr. Matteson claims that with proper management the available suitable habitat could sustain a maximum of 10 to 15 plover nests, which he admits may not be a viable population.

Based on the previously mentioned acquisition cost this comes to $16,000 to $25,000 per nest site for a project that may not work.

Please consider our alternatives which will provide low cost immediate results. Let this bill die an appropriate death in committee.

ATTACHMENT I

Prevent the Sale of Surplus Federal Lands on the Island to Private Developers

It has been alledged that if this property is not attached to the park it will be declared surplus and fall into the hands of developers. If these lands are declared surplus they must first be offered to the State and then to local units of government. The chance of sale to developers is nil. Even if true, a developer would be faced with strict shoreland zoning, a lack of electricity, a probable inability to install septic systems due to laws regulating soil and groundwater conditions, a lack of boat facilities, and a short tourist season. These same reasons will prevent the development of the private lands without park intervention.

Construct Recreational Boat Facilities

One reason that the Island has remained relatively undisturbed is its lack of a protected harbor and recreational boat docking facilities. Boats of the size that use the local marinas must be anchored offshore where they are exposed to frequent, rapidly developing storms.

The development of a protected harbor would be expensive and probably not feasible. The Chequamagon Bay side of the island is shallow for more than 1/4 mile off shore and would require frequent maintenance dredging. The Lake Superior side of the island is naturally maintained by constantly drifting sand. A breakwall extended from this beach would stop the natural flow of sand and cause severe beach erosion, possibly sufficient to cut the island in half. Examples of this phenomenon already exist as the result of small piles of stone placed by the Coast Guard to protect essential beach installations.

Construct a Day Use Picnic and Recreation Area

The soils on the Island consist entirely of sand dunes with a partical size ranging from coarse to fine depending on the pattern of wind deposition. Organic topsoils are thin to nonexistant except in a deep narrow bog that runs the length of the island between the dune upland on the east and the ice ridge beach on the west.

The above mentioned sandy, infertile, droughty soils are far from ideal for the construction and maintenance of a day use area. The spill over of people from the day use area into non-maintained areas will quickly result in the loss of vegetation and increased wind erosion.

The island vegetation, which consists primarily of scrub oak, jack pine, and grass combined with droughty soils, is particularly susceptible to wild fires. A day use area, which would attract people off the beaches, would substantially increase the fire hazard.

Restore the Lighthouse Buildings

The lighthouse complex consists of two fully automated and well maintained operating lighthouses, a power generation building, the keepers house, and a pier.

The original keepers residence was torn down by a local contractor about 45 years ago along with all of the facilities related to the coal fired steam generator. The replacement residence is a World War II vintage, two story, wood frame, triplex typical of the type that can be seen on any military installation of that era. The building was abandoned when the lights were automated and has since been severely vandalized. Restoration would be very expensive and cannot be justified unless some practical use can be found for the building.

The corrugated steel power generation building was abandoned when an electrical power cable was run from Madeline Island. Any salvage value that the structure may have is diminished by its remote location.

The pier is constructed of steel pilings with a reinforced concrete deck. The pilings have been severly damaged by the movement of lake ice causing the deck to sag and seperate. In several places the deck is no longer adequately supported. The wooden approach to the pier has completely disintegrated due to dry rot. The deck of the pier is much to high for use by recreational boats and there are no bumpers to prevent smaller boats from smashing against the pilings.

Provide for the Geological Study of Barrier Island Formation

Such studies have been on-going for years and today are conducted primarily through the use of aerial and satelite photography. This bill would do little to promote such endeavors, however, our suggested alternative for use as a learning center by Northland College would create new learning opportunities for local students.

Increase Use of Local Marinas

Substantial increased use of the island by marina class boats will not occur without the development of a safe harbor and day use areas on the Island. As stated previously the development of these facilities would be expensive, possibly not feasible, and definitely environmentally damaging.

TESTIMONY BY SENATOR FRANK R. LAUTENBERG
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION
JUNE 20, 1986

MR. CHAIRMAN, I THANK YOU FOR THE OPPORTUNITY TO PRESENT THIS TESTIMONY TODAY.

IN APRIL, I JOINED WITH MY DISTINGUISHED COLLEAGUE FROM NEW JERSEY, SENATOR BRADLEY, IN INTRODUCING LEGISLATION DIRECTING THE NATIONAL PARK SERVICE TO STUDY THE GREAT EGG HARBOR RIVER FOR POTENTIAL ADDITION TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM. THIS MEASURE HAS BEEN INCLUDED IN THE BILL BEING CONSIDERED BY THIS SUBCOMMITTEE TODAY.

THE WILD AND SCENIC RIVERS ACT, ENACTED IN 1968, EXPRESSED THE NATIONAL POLICY OF BALANCING THE NEED FOR DAMS AND OTHER CONSTRUCTION AT APPROPRIATE SECTIONS OF RIVERS WITH THE NEED TO PRESERVE OTHER SELECTED RIVERS AND SECTIONS OF RIVERS IN THEIR FREE-FLOWING CONDITION. IT WAS THE INTENT OF CONGRESS TO PROTECT SUCH RIVERS AND THEIR IMMEDIATE ENVIRONMENTS, WHICH POSSESS OUTSTANDING SCENIC, RECREATIONAL, HISTORIC, CULTURAL, OR OTHER SIMILAR CONSERVATION VALUES.

IN 1981, THE U.S. DEPARTMENT OF THE INTERIOR RECOGNIZED THE VALUE OF THE GREAT EGG HARBOR RIVER BY PLACING IT ON THE NATIONWIDE RIVERS INVENTORY. THE RIVER WAS DETERMINED TO HAVE NATIONALLY SIGNIFICANT QUALITIES MAKING IT ELIGIBLE, SUBJECT TO FURTHER STUDY, FOR INCLUSION IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

THE RIVER, LOCATED IN SOUTHERN NEW JERSEY, BEGINS IN BERLIN TOWNSHIP IN CAMDEN COUNTY AND FLOWS IN A GENERAL SOUTHERLY DIRECTION THROUGH GLOUCESTER AND ATLANTIC COUNTIES BEFORE IT EMPTIES INTO GREAT EGG HARBOR. A LARGE PORTION OF THE RIVER IS LOCATED IN THE PINELANDS NATIONAL RESERVE, ONE OF OUR GREATEST NATURAL RESOURCES. IT IS THE LONGEST CANOEABLE RIVER IN THE PINELANDS, RUNNING THROUGH WETLANDS ABUNDANT WITH WILDLIFE, INCLUDING MANY THREATENED OR ENDANGERED SPECIES. AQUATIC LIFE IN THE WATERSHED IS SELECTIVELY SUITED TO THE UNIQUE ENVIRONMENT OF THE GREAT EGG HARBOR RIVER. HERRING AND STRIPED BASS RETURN FROM THE ATLANTIC OCEAN TO SPAWN IN THE GRAVEL OF THE RIVER'S TIDAL REACH.

HISTORIC SETTLEMENTS, RESIDENTIAL HOMES, CAMPGROUNDS AND SEVERAL STATE AND LOCAL PARKS ARE LOCATED ALONG THE RIVER BANK. ITS UNIQUE ENVIRONMENT AFFORDS A WILDERNESS EXPERIENCE SELDOM FOUND WITHIN PROXIMITY TO POPULATED CENTERS.

MR. CHAIRMAN, THE NATIONAL PARK SERVICE STRONGLY SUPPORTS THE STUDY OF THE GREAT EGG HARBOR RIVER FOR INCLUSION IN THE WILD AND SCENIC RIVERS SYSTEM. THE MUNICIPALITIES ALONG THE RIVER SUPPORT THIS EFFORT TO PROTECT THIS GREAT NATURAL RESOURCE, AS DOES THE STATE OF NEW JERSEY.

THE ACT PROVIDES FLEXIBILITY IN THE LEVELS OF PROTECTION AND CONSERVATION MANAGEMENT FOR A RIVER INCLUDED IN THE WILD AND SCENIC RIVERS SYSTEM. THE PROCESS FOR DEVELOPMENT OF A MANAGEMENT PLAN UNDER THE ACT MUST INVOLVE CONSIDERABLE PARTICIPATION BY LOCAL CITIZENS AND MUNICIPALITIES, ALONG WITH THE STATE AND FEDERAL GOVERNMENTS.

THE GREAT EGG HARBOR RIVER IS AN ECOSYSTEM WHICH IS SO UNIQUE THAT THE UNITED NATIONS HAS PROCLAIMED IT AND THE REST OF THE PINELANDS NATIONAL RESERVE AS AN "INTERNATIONAL BIOSPHERE", A "TRULY REMARKABLE COMBINATION OF NATURAL FEATURES THAT MERITS PRESERVATION AND STUDY BY SCIENTISTS OF INTERNATIONAL REPUTE."

MR. CHAIRMAN, THE GREAT EGG HARBOR RIVER IS A RESOURCE ENJOYED BY NATURE ENTHUSIASTS THROUGHOUT NEW JERSEY AND THE UNITED STATES. IT DESERVES TO BE PROTECTED. I LOOK FORWARD TO WORKING WITH THE NATIONAL PARK SERVICE, THE STATE OF NEW JERSEY, MUNICIPALITIES AND LOCAL CITIZENS TO ASSURE THAT THIS PRICELESS AND BEAUTIFUL RESOURCE IS PRESERVED FOR US AND OUR FUTURE GENERATIONS.

MR. CHAIRMAN, APPROVAL OF THIS LEGISLATION WILL ENABLE THE NATIONAL PARK SERVICE TO BEGIN A COMPREHENSIVE STUDY OF THE GREAT EGG HARBOR RIVER. I AM SURE THAT THIS STUDY WILL LEAD TO THE EVENTUAL INCLUSION OF THIS GREAT NATURAL RESOURCE IN THE WILD AND SCENIC RIVERS SYSTEM, AFFORDING IT THE PROTECTION NECESSARY TO PRESERVE IT IN ITS NATURAL STATE. I HOPE THIS SUBCOMMITTEE WILL ACT FAVORABLY ON THIS BILL.

THANK YOU, MR. CHAIRMAN.

National Audubon Society
MID-ATLANTIC REGIONAL OFFICE
1104 FERNWOOD AVENUE, SUITE 300
CAMP HILL, PA 17011
(717) 763-4985

1986 JUL 23 AM 8 [illegible]

21 July 1986

The Honorable Malcolm Wallop
U. S. Senate
Washington, D.C. 20515

Dear Senator Wallop:

On behalf of the National Audubon Society and 11,000 Audubon members in New Jersey, I am writing to urge your support for S.B. 2287. This Bill would appropriate funds for the study of the Great Egg Harbor River for possible inclusion in the Wild and Scenic Rivers System.

From a biological standpoint the Great Egg Harbor River is of interest for several reasons. From its source near Berlin, New Jersey, the River winds its way through freshwater and tidal wetlands on its way to the Atlantic Ocean. These areas provide critical nesting and feeding habitat for numerous species of wildlife. The tidal wetlands also nourish the rich shellfish industry which contributes significantly to the economy of southern New Jersey.

The Great Egg Harbor River is also important as a recreational resource. It is the longest canoeable River in the New Jersey Pinelands. Its solitude and near wilderness quality are a pleasant retreat for birdwatchers and canoeists who live nearby. As the northeastern United States becomes more populated, rivers like the Great Egg Harbor will become increasingly valuable for future generations.

Historically, the Great Egg Harbor River was even of interest to John James Audubon, the famous artist-naturalist that the National Audubon Society is named after. Audubon explored the area in the summer of 1829. His journal writings describe the abundance of birds such as terns, gulls, herons, and marsh hens. Audubon also wrote of the many drawings he made at Great Egg Harbor and the many pleasant days he spent there. We know that his paintings of the long-billed marsh wren and osprey which appeared in Birds of America, his most famous work, were done in the Great Egg Harbor area.

In summary, we believe the Great Egg Harbor River is unique from a biological, recreational, and historical perspective, and that it is certainly worthy of further study for possible inclusion in the Wild and Scenic Rivers System. We would appreciate it if you would share our views with other members of the Senate Energy and Natural Resources Committee as you give further consideration to S.B. 2287.

Sincerely,

Thomas D. Troy
THOMAS D. TROY
Regional Representative

TDT:lg
cc: Senator Bill Bradley
Representative William Hughes
Senator Frank Lautenberg
Audubon Chapter Presidents & Cons. Chairs

John Armstrong, County Administrator
Testimony for Great Egg Harbor River Public Hearing
Public Land and Reserved Water Subcommittee
Friday, June 20, 1986

My name is John Armstrong, County Administrator for Atlantic County. Today I am making these comments on behalf of County Executive Richard Squires.

Twilight was swiftly approaching and the encampment on the sandy river shore would soon be still. Campfires blazed before a dozen lean-tos and huts...dense smoke billowed skyward, silhouetted figures were beaching canoes and carrying ashore the day's netted harvest of fish.

This scene could be an event hundreds of years ago as the Lenni Lenape Indians established their summer campsites along the Great Egg Harbor River--or in fact it could be today--as a small group of Boy Scouts settle in for the night in one of the primitive campsites of the County Park System along the Great Egg Harbor River.

Miles of magnificent undisturbed river shoreline of the Great Egg Harbor River exist today as they did in the days of the Lenni Lenape Indians.

Lenape Indians all but vanished from the Jersey Scene when the white man began cutting stage roads and horse trails through Southern New Jersey. Dutch explorer Cornelius Mey sailed up the Great Egg Harbor River to Mays Landing in his ship the "Fortuyn" in 1614.

Since then, the Great Egg Harbor River has played a critical role in the County's development, first boat building, fishing, and shellfishing, commerce, then the river spawned the early iron industry in Southern New Jersey with its "bog iron deposits" and water power at Weymouth and others, the importance and growth of agriculture to the County is linked to the River--particularly the cranberry and bluebery crops which depend so much on the clean water of the River and its ground water. Today the River plays an important role in Atlantic County's reemergence as a number one tourist and recreation destination (fishing, boating, canoeing, swimming, water skiing opportunities). The use of the River now can only be enhanced by designation as a Wild and Scenic River--placing the Great Egg Harbor in standing with others such as the St. Croix in Wisconsin, the Allagash River in Maine and the Obed River in Tennessee. The difference however, is that the Great Egg Harbor is in New Jersey--the most urbanized state in the nation; adjacent to Atlantic City--the number one tourist destination in the County (30 million in '85). The timing of the study for possible designation of Wild and Scenic status couldn't come at a more critical time.

The Great Egg Harbor River is a tremendous natural, cultural and recreational resource which should be preserved through sound planning and management.

Over the past several years Atlantic County Government has been doing its share in actively protecting the River. Our activities have been concentrated in three specific areas:

First, we have acquired over 1,400 acres of strategically located tracts of land along the River for open space and recreational activities.

Second, our County Utilities Authority has developed a sewage Master Plan which would eliminate a major stream discharge to the Great Egg Harbor River at Mays Landing, our County Seat; and third, we have developed a County Open Space Plan which includes a multi-phased plan to protect and provide access to the River.

Even with this sizable commitment of over 1,400 acres along the Great Egg Harbor River, Atlantic County has recently been awarded a 5 million dollar grant and loan from the State D.E.P. "Green Acres Program" for the acquisition of an additional 2,470 acres of land and water along the Great Egg Harbor River. This pending County acquisition includes the 1,835 acre Lake Lenape tract in the growth community of Hamilton Township and the 535 acre River Bend tract in the lower portion of the River corridor at Mathews Run in Egg Harbor Township.

Acquisition of these two sites by Atlantic County Government is anticipated to be completed by the end of the summer of 1986 bringing a total of 3,870 acres of County owned park land along the Great Egg Harbor River. It should be added that approximately $1.5 million dollars of Federal Land and Water Conservation Funds will assist in the acquisition of these two important river sites.

The Atlantic County Park System along the river is a multi-million dollar County, State and federal investment which will require sound planning and protective management. In order to protect this investment and the integrity of the entire river system including water quality, scenic beauty, recreational opportunity, cultural and historical resources, Atlantic County supports passage of legislation for the US Department of Interior to study the Great Egg Harbor River for potential addition to the National Wild and Scenic River system.

We have come here today to support passage of legislation which will create a Master Plan, a management document...which transcends municipal, county and state agency boundaries and considers the river as a whole interconnected ecological system.

I thank you for the opportunity to speak before you today and hope you will consider the County's interest in protecting this important resource, the Great Egg Harbor Rivr

TOWNSHIP OF EGG HARBOR

R.D. 1, BOX 262
BARGAINTOWN ROAD
LINWOOD, N.J. 08221
609 · 927 5000

TOWNSHIP COMMITTEE
JAMES J. McCULLOUGH, CHAIRMAN
MARIA T. BOHLE
JOHN CARMAN
LOUIS CULLEN
DANIEL GARSHMAN

TOWNSHIP OFFICIALS
PATRICIA INDRIERI, RMC, CLERK
CHRIS REHMANN, ENGINEER
MICHAEL JACOBSON, SOLICITOR

June 10, 1986

Senator Malcom Wallop
Dirksen Senate Building
1st and Constitution Avenue
Washington, DC 20002

Dear Senator Wallop,

In regards to your hearings June 20, 1986, on the Great Egg Harbor River in New Jersey for inclusion to the Wild and Scenic River System, the Environmental Commission of Egg Harbor Township, Atlantic County, New Jersey, wish to make the following remarks. Egg Harbor Township is bordered on two sides by the Great Egg Harbor River. Our Township includes two major and several minor tributaries of the Great Egg Harbor River. We are located towards the lower end of the River, where Great Egg Harbor Bay and Inlet meet the ocean, and are concerned about water quality in the River. We support the inclusion of the Great Egg Harbor River in the National Wild and Scenic River System for the following reasons:

1. This section of New Jersey is still largely rural - agricultural, forest lands, or moderate density residential development. The natural integrity of this river and watershed is still largely intact.

2. The Great Egg Harbor Bay is a prime recreational, sport, and commercial fishing and shellfishing area. Clams, blue crabs, mussels, a few oysters, and fish such as winter and summer flounder, weakfish, bluefish, herring, shad, sea bass, and others in season are abundant. This bay and estuary abounds in mature fish and shellfish, and is also a spawning area for a number of these species.

3. This area has abundant migratory and nonmigratory bird species, particularly waterfowl such as many duck species; several species of egrets, herons, ibis, etc. This area is under the Atlantic Flyway for migratory birds, and several National and private wildlife preserves such as the Forsyth National Wildlife Preserve and the Wetlands Institute are nearby. John James Audubon is documented to have spent a year painting waterfowl in our Township, on English Creek, a

tributary of the Great Egg Harbor River.

4. The Environmental Commission of Egg Harbor Township is presently engaged in updating our Natural and Cultural Resource Inventory. We have found a number of prehistoric Indian sites on the banks of the Great Egg Harbor River as well as its tributaries such as the Patcong Creek, and Powell Run in our Township; the New Jersey Green Acres recently commissioned a survey by Dr. Anthony Ranere of Temple University Anthropology Department which found a number of Indian sites up and down the whole Great Egg Harbor Basin.

5. Water quality in the tributaries of the Great Egg Harbor River is still good for the most part. A recent study of the Patcong and English Creeks in Egg Harbor Township showed low coliform counts and BOD.

6. This legislation is necessary to protect and preserve water quality in the Great Egg Harbor River system. Major threats to the River at present are antiquated sewage systems in Mays Landing, NJ; waste spills in Buena and Berlin, NJ and scattered illegal disposal of solid trash and liquid waste throughout the area. Designation of the Great Egg Harbor River as Wild and Scenic will help local and State agencies enforce the State's strict water quality standards. This is especially important to Egg Harbor Township as a downstream municipality, to maintain clean water coming to us and to maintain this River and Bay as a prime fishing, boating, birding and recreational area.

7. This legislation is necessary to help us zone and protect the River bank and the tributary streams from unwise development. Our Township and County are growing in population; the Pinelands Commission has designated our Township as one of the Pinelands "regional growth areas". We need additional reasons to zone growth away from the River and its tributaries, to protect our fresh and salt water

wetlands; and zone higher ground, away from the River, for higher density development.

In conclusion, our Township was settled from the 1670's on to the present by ship builders, fishermen and seamen in both the US Navy since Revolutionary War times, and our Merchant Marines. Our residents are still oriented towards boatbuilding, fishing, and other recreational activities centered around water and the River. The annual 4th of July Mays Landing Raft Race is the big social event of the year.

Thank you for considering our input in your hearings.

Sincerely yours,

Sandra H. Bierbrauer, PhD

Sandra H. Bierbrauer
Chairperson
Egg Harbor Township Environmental Commission

SHB/cp

Testimony of Jeffrey J. Curtin

Director of Parks & Recreation
Atlantic County, New Jersey

S2287, The Great Egg Harbor
River Wild and Scenic
Study Bill

Before

Public Lands and Water Resource
Subcommitee

Mr. Chairman,

I would like to thank you and the committee members for this opportunity to provide testimony in favor of (S2287), a bill to study the Great Egg Harbor River for National Wild and Scenic River Designation.

My name is Jeffrey Curtin and I am the Director of Parks and Recreation for Atlantic County, New Jersey.

Atlantic County Government in the past three years has made a major committment to the aquisition of open space and parkland for the benefit of current and future generations.

Atlantic County is currently in the process of appraising 2,333 acres of land which is to become the single largest land purchase in County History. This land area is divided into parcels from the headwaters to the estuary protion of the Great Egg Harbor River.

With this purchase Atlantic County's parks system holdings will exceed 4,000 acres. We are before this committee today because all of Atlantic County's Parks and Open Spece Holdings are strategically placed along the drainage basin of the Great Egg Harbor River. Therefore, the quality of this river's waters and the future protective measures which could be afforded by Wild and Scenic designation are intrinsic to the viability of our park system and the enjoyment of residents, and visitors to the Atlantic County's Parks System.

Visitors to Atlantic County find the Egg Harbor River the source of a wide variety of leisure activities. Canoeing, fishing, swimming, tubing, walking, environmental interpretation, visiting historic sites along it's banks, photographing and painting the many vistas that comprize the Egg Harbor River.

Draining a large portion of New Jersey's National Pinelands preserve, the Great Egg Harbor River provides habitat for plant and animal species that are extremely rare. This uniqueness has been recognized internationally with the United Nations designating the N.J. Pinelands as an "International Biosphere".

Thousands of Scientists, teachers, students and other interpreters visit our area annually to study this Biome.

Herein lies the crucial choice which must be made by your committee. To select from a variety of rivers, those few which should be studied for National designation.

The Great Egg Harbor River located in one of the most densely populated states, and regions of our country, provides an unparrelled opportunity for people to discover the inherent values of the natural world in an era when these wilderness values are often lost or forgotten.

I am confident that through the testimony you receive today you will gain a great deal of knowledge about the Great Egg Harbor River, and that through this knowledge you will understand how important the river is to New Jersey for a variety of reasons, and therefore will begin the process of gaining National Wild and Scenic designation by authorizing the study of this watershed.

I thank you for the opportunity to testify before your committee Mr. Chairman.

June 20, 1986

Senator Malcolm Wallop, Chairman
Public Lands and Reserve Water Sub Committee
Dirksen Senate Building
1st and Constitution Aves.
Washington, D.C. 20002

Testimony by Donald J. Lentz on The Great Egg Harbor River

Honorable Chairman and Members of Sub-Committee:

I represent Pinelands People Against the Dump, Inc., a group of environmentally concerned people from Atlantic County, New Jersey. We joined together in January of 1985 to fight a proposed county landfill at Pancoast, a 541-acre wooded site bordering on Deep Run, a tributary of the Great Egg Harbor River. Many sections of the River are largely unspoiled by man's progress, and Deep Run remains one of the most pristine.

Many of us have grown up around the river. We have swum and canoed its winding branches, watched the many varied animals that depend on the river for food and water, and enjoyed the stately beauty of its cedar swamps. The river is also a major factor in providing the unique habitat for rare and endangered plant and animal species found here. The Great Egg Harbor River runs through the Pinelands, a million-acre region designated as the nation's first National Reserve. The Pinelands Comprehensive Management Plan protects the surface and ground waters within its boundaries; however it is imperative that the headwaters of the river all the way out to the Bay be protected, too, for the well-being of the entire river.

We have all become more intently aware of the insidious threats to our water, i.e. rivers, aquifers, ocean, if we continue the same pace of development and septic and waste disposal. Development is surging rapidly in South Jersey, and we must work now to lay the groundwork for the protection of the highly susceptible Great Egg Harbor River. The ultimate goal in the public's eyes must be the protection and preservation of all our waters. By designating the Great Egg Harbor River as "wild and scenic" we will be assuring future generations the chance to enjoy the recreation, food and environment the river affords us. It would be a tragedy to condemn to eventual spoil this beautiful river and all the living things that derive their existence and enjoyment from it.

We would also like to invite members of this committee to come see our Great Egg Harbor River firsthand, and to hold a hearing locally so that many more residents may testify.

Thank you for your time and interest.

Sincerely,

Donald J. Lentz, President
Julie Akers, Secretary
Pinelands People Against the Dump, Inc.
P.O. Box 490
Richland, NJ 08350

WRITTEN TESTIMONY OF MRS. CAROLYN MASTERS
PRESIDENT
PINE WOODS AUDUBON SOCIETY
FOR
SENATE SUBCOMMITTEE ON
PUBLIC LAND, RESERVED WATER, AND RESOURCE CONSERVATION
ON SENATE BILL 2532

June 29, 1986

Carolyn Masters
Lake Serene Box 511C
Hattiesburg, MS 39402

This year the Congress of the United States has the unique opportunity to designate the first Mississippi stream as part of the Wild and Scenic Rivers System. That stream is the Black Creek and Senate Bill 2532 will make 21 miles of it part of P.L.90-542.

The action of Congress in passing P.L.90-542 is laudable for three reasons:

1.) The recent survey conducted at the request of the President's Commission on Americans Outdoors found very strong public support for government action to preserve natural areas for future generations. (National Wildlife Federation Conservation 86, June 6, 1986)

2.) Only 23 million acres out of over 100 million acres of riparian (streamside) forests and wetlands remain in the United States in their natural or semi-natural state. (NWF Conservation 86, June 6, 1986)

3.) According to the United States Forest Service estimates, land-based recreation such as camping, hiking, and nature study will increase by 61% in the next 50 years; water based recreation will increase by 206%. (NAS, conservation newsletter of National Audubon Society, June, 1986.

Mississippians use the Black Creek Area in numerous ways. They hunt, fish, hike, canoe, and camp there. My husband and I belong to two groups - Pine Woods Audubon and St. John Lutheran Church - which use the creek regularly for canoeing trips. Dr. Robert Taylor of the University of Southern Mississippi Biology Department takes his classes there regularly for nature study, and we have other friends who hunt, fish, hike, and camp there.

The success of one business directly related to the creek attests to its economic value as a recreational area. James and Ruth Walley have run the Black Creek Canoe Rentals and report 10 years of operation without a losing season. Their main advertising push in the metropolitan area of New Orleans from which 60% of their canoeists come "in order to get away from the big city."

As an American who loves the natural beauty and heritage of her nation and state, I deeply thank the honorable Representative Trent Lott and Senator Thad Cochran who have introduced legislation to preserve the Black Creek, and I ask the honorable Senator Wallop from Wyoming to work for passage through the Sub-committee on Public Land, Reserved Water, and Resource Conservation.

Thank you for considering my views.

SCENIC
HUDSON INC
9 VASSAR STREET · POUGHKEEPSIE, NY · 12601 (914) 473-4440

1986 JUL 18 AM 8 42

Officers and Directors

Chairman Emeritus
Mrs. Willis Reese

Chairman
George W. Gowen

President
Rudolph S. Rauch, III

Treasurer
William H. Ewen

Assistant Treasurers
James S. Hedges
Herbert C. Heller, Jr.

Secretary
Nancy Abraham

Recording Secretary
Mrs. Alexander Saunders

Nicholas C. Barnes
Mrs. Francis H. Cabot
Stephen Duggan
Mrs. Stephen Duggan
B. Harrison Frankel
John French III
Mrs. R. Dana Gibson
Mrs. Thurston Greene
Mrs. E. Cuyler Hammond
Mrs. Judith Kessler
Charles Komanoff
Judith M. LaBelle
Angela Magill
Robin B. Martin
Barnabas McHenry
David H. Mortimer
Mrs. Frederick H. Osborn, Jr.
Warrie Smith Price
Mrs. Emerson Pugh
Morris S. Roberts
Laurance Rockefeller
David S. Sampson
Ross Sandler
Mrs. C. Sidamon-Eristoff
H. Peter Stern
Esty Stowell
Kenneth R. Toole
Mrs. Thomas M. Waller
William H. Whyte
Alexander E. Zagoreos

Honorary Directors
Robert H. Boyle
Nash Castro
Charles T. Keppel
Charles P. Noyes
Richard H. Pough
David Sive
Chauncey Stillman

Executive Director
Klara B. Sauer

July 14, 1986

Senator Malcolm Wallop, Chairman
Subcommittee on Public Lands, Reserved
Water amd Resource Conservation
202 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Wallop:

Scenic Hudson, one of the oldest and largest environmental organizations in New York State, strongly opposes S. 2483 which would amend the Fire Island National Seashore (FINS) Act to deprive the state and local goverment of the right to regulate private land use activities within the Fire Island National Seashore boundaries.

Scenic Hudson was one of the strongest advocates of enactment of the State's Coastal Management Program, authorized under the national Coastal Zone Management Act which Congress enacted in 1974 and has continued to support. As part of the State's program, the Coastal Erosion Hazard Areas Act was passed. This legislation is the most significant piece of environmental protection legislation passed in New York in connection with the State's Coastal Management Program.

S. 2483 would unconstitutionally and unnecessarily undermine this important state legislation. The FINS Act sets only minimum standards that must be met. It does not, however, preclude the establishment of more stringent standards to protect the shoreline and natural resources if such are warranted for environmental protection purposes. In the case of Long Island's south shore -- including Fire Island -- the more definitive protection provided by the State's Coastal Erosion Hazard Areas Act is warranted. Several studies, including the Army Corps of Engineers National Shoreline Survey, have documented the severe erosion rates along the south shore and the necessity of instituting strong measures to protect development, not just along the shoreline but inland as well.

This amendment appears to stem from the mistaken belief that the FINS Act and the Coastal Erosion Hazard Areas Act are in conflict. They are not. The State Act supplements and further refines the Federal legislation but both are directed at protecting a very fragile and unique natural resource -- Fire Island.

Whatever differences exist between the two acts can be resolved administratively by the relevant local, state and Federal agencies. No act of Congress is required, especially not one that places state and local land use regulation under the control of the Federal government. The courts have consistently held that the regulation of land use is one of the powers reserved to the states.

In view of the foregoing, we urge the rejection of this amendment.

Sincerely,

Klara B Sauer
Klara B. Sauer
Executive Director

TESTIMONY
OF THE
NATURAL RESOURCES DEFENSE COUNCIL,
ENVIRONMENTAL PLANNING LOBBY,
GROUP FOR THE SOUTH FORK,
AND
SCENIC HUDSON
BEFORE THE
SENATE SUBCOMMITTEE ON PUBLIC LANDS,
RESERVED WATER AND RESOURCE CONSERVATION,
CONCERNING S.2483,
A BILL TO AMEND THE
FIRE ISLAND NATIONAL SEASHORE ACT OF 1964

Prepared by:
Sarah Chasis
Senior Attorney
Natural Resources Defense Council
122 East 42nd Street
New York, New York 10168
July 3, 1986

The Natural Resources Defense Council (NRDC) is a national environmental organization, headquartered in New York, dedicated to promoting protection of the human environment. The Environmental Planning Lobby (EPL) is a non-profit environmental advocacy coalition representing 80 organizations and thousands of individual members. EPL is the only full-time environmental lobby in New York State and has played a major role in protecting the State's natural resources for over 15 years. The Group for the South Fork is a non-profit professional environmental organization, headquartered in Bridgehampton, New York, which is dedicated to natural resources protection and land use planning on the South Fork of Long Island. Scenic Hudson is an environmental organization dedicated to protecting and preserving the natural beauty and resources of the Hudson Valley. All these organizations have worked hard over the last several years in support of the establishment and implementation of New York State's Coastal Zone Management Program, including support for passage and implementation of the State Coastal Erosion Hazard Areas Act. Several of these groups have also been active over the years in supporting the Fire Island National Seashore. All these organizations strongly oppose S.2483. Our opposition is based on the following concerns.

S.2483 would have the effect of invalidating a number of important federal and state environmental statutes currently applicable to private development within the Fire Island National Seashore. Such statutes include the federal Coastal Zone

Management Act, the National Flood Insurance Act, the Coastal Erosion Hazard Areas Act and possibly state zoning enabling legislation. The result would be to establish less stringent environmental standards for developed areas of the National Seashore than exist for areas outside the Seashore. Yet development in the seashore should if anything be controlled more stringently than development outside.

Second, this bill directly conflicts with the federal Coastal Zone Management Act (CZMA). The CZMA encourages coastal states to regulate development in the coastal zone. New York State adopted a Coastal Zone management Program in direct response to the CZMA. That program, including the State's Coastal Erosion Hazard Areas Act, currently applies to private development in the Seashore. S.2483 would remove the applicability of the State's Coastal Zone Management Program to private uses within the National Seashore, thereby creating a significant gap in the applicability of an otherwise uniform and consistent statewide program.

Third, the Coastal Erosion Hazard Areas Act covers important public purposes which are fully consistent with the purposes of the Fire Island National Seashore Act. These purposes are to limit development in hazardous areas, including coastal dunes, protect coastal features which provide natural protection from erosion and storms and limit public investment in erosion control structures. By eliminating the applicability of this Act to the National Seashore, an important mechanism for protecting communities from the effects of erosion would be eliminated in one of the areas of the south shore most in need of such protection. Studies of the south shore of Long Island performed by the State University of New York Marine Sciences Research Center indicate that over the last 48 years, the water line has retreated between 150 and 250 feet. This is an average recession rate of 3 to 5 feet per year. Concurrent with this erosion process is a longterm rise in sea level. These two factors make it even more important to protect natural erosion buffering features such as dunes and beaches from development.

Finally, it is S.2483, not the Coastal Erosion Hazard Areas Act, that is inconsistent with the intent of the original Fire Island National Seashore Legislation. The original act did not prohibit the applicability of federal, state or local laws to private development in the seashore, particularly laws which impose more stringent environmental protections. Indeed, the regulations for the Fire Island National Seashore explicitly state that they "are designed to establish minimum standards to which local zoning ordinances for the Fire Island National Seashore must conform...", not maximum standards. Yet adoption of S.2483 would preclude the applicability of more stringent federal or state environmental statutes.

For these reasons, the above named environmental groups strongly oppose S.2483. We urge the Committee to vote against this legislation.

STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY N Y 12231

GAIL S. SHAFFER
SECRETARY OF STATE

July 3, 1986

Senator Malcolm Wallop, Chairman
Subcommittee on Public Lands, Reserved Water
and Resource Conservation
Senate Committee on Energy and Natural Resources
202 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Wallop:

I write you with respect to proposed legislation currently before your Subcommittee on Public Lands, Reserved Water and Resource Conservation to amend the Fire Island National Seashore Act of 1964 (P.L. 88-587).

As head of New York's federally approved coastal management program, I am deeply concerned over the impact this bill would have on New York State's ability, and the ability of the State's 255 coastal municipalities to protect our coastal resources through the enactment of land use regulations. Accordingly, I wish to communicate my strong opposition to this proposed legislation.

In 1981, the New York State Legislature enacted the Coastal Erosion Hazards Areas Act (CEHA), a copy of which is attached (Environmental Conservation Law, Article 34). This legislation was enacted to address serious concerns with statewide problems caused by erosion, and the need to protect certain natural features which exist statewide. Pursuant to this Act, the south shore of Long Island, including Fire Island, was designated as an erosion hazard area. This designation was based on erosion studies done by the U.S. Army Corps of Engineers, National Park Service, and others.

The regulations promulgated pursuant to the CEHA are completely consistent with the intent of existing National Park Service (NPS) regulations in two important ways. They recognize the importance of the dunes as a natural protective feature, and second they are implementable by local government. The State opted for a more strict dune setback regulation than the existing NPS Fire Island National Seashore (FINS) setback because of the critical nature of erosion on Fire Island as documented by the Corps of Engineers in the National Shoreline Survey, and in studies reviewed by New York State Department of State and Department of Environmental Conservation.

It is imperative the Subcommittee understand that a dune setback ordinance is enacted not only to protect development near the dune, i.e. Fire Island residents, but all development shielded by the dune. This protection extends to development on the Long Island mainland along Great South Bay which is seriously jeopardized by continued degradation of the Fire Island barrier island and dune systems. Further, the need for setback ordinances more stringent than those of NPS is critical not only in reference to historic trends, but also in the face of the finding of the National Academy of Science of rising sea level and increased shoreline erosion.

The Fire Island National Seashore Act (FINSA) sets standards for the regulation of private land in an area of mixed public and private holdings. Specifically, it sets standards for local zoning ordinances and subjects them to the approval of the Secretary of the Interior. However, the power of local governments, which are political subdivisions of the State, to enact zoning ordinances derives from the New York State Constitution and laws of New York State. The New York State Legislature enacted the Coastal Erosion Hazard Areas Act pursuant to its police power to regulate the use of land within its borders. It is important to note that the CEHA provides additional protections, and is in no way an attempt to contravene or supersede the FINSA.

The Tenth Amendment to the United State Constitution provides that, "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The regulation of land use has consistently been held to be one of the powers so reserved to the states. The proposed amendment to the Fire Island National Seashore Act, if enacted, would be subject to challenge as an unconstitutional usurpation of a state's police power. Thus, it is our position that New York's Coastal Erosion Hazard Areas Act is a reasonable response to a real problem which is clearly within the State's legislative authority.

In 1985, the New York State Legislature considered a bill which would have excluded areas of coastline designated as a national seashore from the definition of coastal erosion hazard area. The bill was subsequently amended to delete the exclusion and to provide for improved permitting coordination between the State and local governments. (See attached amendment to Environmental Conservation Law, Section 34-0105.) Thus, the Congress is considering a bill which would in effect amend a law of New York State in a manner which was specifically rejected by the New York State Legislature.

The bill would in effect treat private land within the Fire Island National Seashore the same as land owned by the Federal government, rendering it exempt from the Coastal Zone Management Act. However, if this area were to be exempted, no federal funds would be available to the local governments for planning, or implementing their respective local coastal management programs in this area. Likewise, these areas would lose the power to have federal and state activities reviewed for consistency with their federally approved programs under the Coastal Zone Management Act of 1972 as amended. Whatever benefit this bill might provide the property owners in the area affected would be more than offset by the loss of benefits under the CZMA.

This bill has its genesis in a presumption that there is a fundamental conflict between the Fire Island National Seashore Act and New York's Coastal Erosion Hazards Area Act. There is not. These acts have essentially the same goals and any differences can be worked out administratively between the concerned local, State and Federal agencies, without an act of Congress. This is particularly appropriate in view of the fact that the NPS/FINS is in the process of remapping the dune setback line, as mandated by the NPS/FINS regulations. It may be possible to conform or justify the NPS/FINS and NYSDEC dune setback line. Thus, it would seem ill-advised to pass a controversial and possibly unconstitutional amendment that may be unnecessary.

This bill is an unprecedented attempt to bring local land use regulation under the control of the Federal government. I believe that the goals of the sponsors can be achieved without undertaking such a radical assault on the federal system provided by the U.S. Constitution. To that end, I will continue to work with the affected local, State and Federal agencies to ensure that property owners in the area are not burdened by conflicting land use regulations.

Thank you for the opportunity to set forth these views for the record.

Sincerely,

Gail S. Shaffer

cc: Senator Daniel Patrick Moynihan
Senator Alphonse M. D'Amato
Congressman Thomas J. Downey
Congressman William Carney

c.552

STATE OF NEW YORK

S. 4741

A. 6623

1985-1986 Regular Sessions

SENATE–ASSEMBLY

March 26, 1985

IN SENATE -- Introduced by Sen. TRUNZO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

IN ASSEMBLY -- Introduced by M. of A. HARENBERG, BIANCHI -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the application of article thirty-four of such law relating to coastal erosion

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The opening paragraph of subdivision three of section 34-0103 of the environmental conservation law, as added by chapter eight hundred forty-one of the laws of nineteen hundred eighty-one, is amended to read as follows:

"Coastal erosion hazard area" or "erosion hazard area" shall mean those areas of the coastline *other than areas of coastline designated as a national seashore pursuant to the provisions of any federal law, rule or regulation*.

§ 2. Subdivision four of section 34-0103 of such law, as added by chapter eight hundred forty-one of the laws of nineteen hundred eighty-one, is amended to read as follows:

4. "Coastline" shall mean the lands adjacent to the state's coastal waters, including lakes Erie and Ontario, the St. Lawrence and Niagara rivers, the Hudson river south of the federal dam at Troy, the East river, the Harlem river, the Kill van Kull and Arthur Kill, Long Island sound and the Atlantic ocean, their connecting water bodies, bays, har-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

bors, shallows and marshes, other than areas of coastline designated as a national seashore pursuant to any federal law, rule or regulation.

§ 3. Section 34-0113 of such law is amended by adding a new opening paragraph to read as follows:

The provisions of this article shall not apply to any areas of coastline designated as a national seashore pursuant to any federal law, rule or regulation.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law.

MAY 1985

EPL

Environmental Planning Lobby
196 Morton Ave.
Albany, NY 12202
(518) 462-5526

MEMORANDUM OF OPPOSITION

Memorandum #31
May 6, 1985

Bill Number: S4741 (Trunzo)
A6623 (Harenberg, Bianch

AN ACT to amend the environmental conservation law, in relation to the application of article thirty-four of such law relating to coastal erosion.

The Environmental Planning Lobby, Natural Resources Defense Council and Scenic Hudson, Inc. strongly oppose this bill.

In 1981, New York adopted the Coastal Erosion Act which provides for the mapping of coastal areas that are likely to be eroded due to storms and wave action. Once mapped by the Department of Environmental Conservation (DEC), regulations will be promulgated to control development in high risk erosion areas. The intent is to protect human life and minimize property damage and further erosion. Localities will have the option to regulate the program if they desire to. If not, the program will be regulated by the DEC.

This bill exempts national seashore areas from the state regulations. Specifically, it will exempt the Fire Island National Seashore which is a high erosion risk area.

Currently, the Fire Island National Seashore area is covered by federal regulations promulgated by the Department of Interior. These federal regulations are quite lax and poorly enforced and are less stringent than Part 505 of Chapter 6 NYCR. It is essential that Fire Island not be exempt from the state regulations which will afford much greater protection.

Within the next few months, the DEC will issue its final coastal erosion regulations. DEC has responded to a number of legitimate concerns raised by property owners on Long Island, especially for non-storm related damage and steps to take when structures are destroyed by coastal storms.

Exempting the Fire Island National Seashore from article thirty-four is opening up a pandora's box which may undermine the entire intent of the Coastal Erosion Act which the Legislature saw fit to enact just a few years ago.

We strongly oppose this bill.

LBDC 6/6/85 PAM:

ENVCONLA
(Coastal erosion; application)

En Con L.; coastal erosion; exemp

By

Amend SENATE BILL NO. 4741, as follows:

By

Amend ASSEMBLY BILL NO. 6623, as follows:

Strike out all after the enacting clause and insert

Section 1. Subdivision four of section 34-0104 of the environmental conservation law, as added by chapter eight hundred forty-one of the laws of nineteen hundred eighty-one, is amended to read as follows:

4. The commissioner shall review the boundaries of each erosion hazard area identified pursuant to this section ten years from the date of its identification and every ten years thereafter. [The commissioner shall also review such boundaries as might be affected by major coastal storms after an occurrence of such a storm. The commissioner may review such boundaries more frequently at his discretion] The commissioner may revise erosion hazard area maps not sooner than twelve months after the occurrence of a major man made or natural event or a major coastal storm if he determines that topographical changes or loss of structural protection at the end of such a twelve month period and as a result of event or such storm justify, pursuant to the regulations of the department, adjustment of the erosion hazard area boundary by twenty-five feet or more. Following such review, the commissioner shall adjust the boundaries of such erosion hazard area to effect any additions, deletions or technical changes, or to reflect any changes due to erosion, accretion or other natural or man-made changes. The commissioner shall follow the procedures set forth in subdivisions two and three of this section with respect to any lands which are proposed to be added to or deleted from an erosion hazard area because of an adjustment of the boundaries of such erosion hazard area pursuant to this subdivision.

§ 2. Section 34-0105 of such law is amended by adding a new subdivision six to read as follows:

6. Notwithstanding any inconsistent provision of law where an application is made for any permit, variance or other form of approval required pursuant to any local law or ordinance enacted or adopted and approved by the commissioner pursuant to this section, for any activity or development within a designated erosion hazard area, the city, town or village to which such application is made shall ascertain what, if any, other permit, variance or hearing procedures or applications are required with regard to such activity or by any governing body of the

state or any of its subdivisions pursuant to any federal, state or local law or ordinance. Such city, town or village, at the request of the applicant, shall consolidate and coordinate said application, permit, variance and hearing procedures, as required by each such governing authority, into a single, comprehensive hearing and review procedure with regard to such activity or development. However, nothing contained in this section shall be deemed to limit or restrict the state, its subdivisions or any other governing authorities, which are properly a party to such consolidated review proceeding, from the independent exercise of such discretionary authority with respect to the issuance, denial or modification of such permits, variances or other forms of approval as they may have been granted by law.

§ 3. Section 34-0106 of such law is amended by adding a new subdivision nine to read as follows:

9. Notwithstanding any inconsistent provision of law where an application is made for any permit, variance or other form of approval required pursuant to any local law enacted and approved by the commissioner pursuant to this section, for any activity or development within a designated erosion hazard area, the county to which such application is made shall ascertain what, if any, other permit, variance or hearing procedures or applications are required with regard to such activity or development by any governing body of the state or its subdivisions pursuant to any federal, state or local law or ordinance. Such county, at the request of the applicant, shall consolidate and coordinate said application, permit, variance and hearing procedures, as required by each such governing authority, into a single, comprehensive hearing and review procedure with regard to such activity or development. However, nothing contained in this section shall be deemed to limit or restrict the state, its subdivisions, or any other governing authorities, which are properly a party to such consolidated review proceeding, from the independent exercise of such discretionary authority with respect to the issuance, denial or modification of such permits, variances or other forms of approval as they may have been granted by law.

§ 4. Section 34-0107 of such law is amended by adding a new subdivision six to read as follows:

6. Notwithstanding any inconsistent provision, and consistent with the provisions and purposes of article seventy of this chapter, where an application is made to the commissioner for a permit pursuant to section 34-0109 of this article for any activity or development within a designated erosion hazard area, the commissioner shall ascertain what, if any, other permit, variance or hearing procedures or applications are required with regard to such activity or development by any governing body of the state or any of its subdivisions pursuant to any federal, state or local law or ordinance. The commissioner, at the request of the applicant shall consolidate and coordinate said application, permit, variance and hearing procedures, as required by each such governing authority, into a single, comprehensive hearing and review procedure with regard to such activity or development. However, nothing contained in this section shall be deemed to limit or restrict the state, its subdivisions or any other governing authorities, which are properly a party to such consolidated review proceeding, from the independent exercise of such discretionary authority with respect to the issuance, denial or modification of such permits, variances or other forms of approval as they may have been granted by law.

§ 5. This act shall take effect on the thirtieth day after it shall have become a law.

NEW YORK STATE ASSEMBLY
1985 COMMITTEE BILL MEMORANDUM

STANDING COMMITTEE: Environmental Conservation

ASSEMBLY BILL: 6623

ASSEMBLY SPONSOR: Harenburg

SENATE COMPANION: 4741

SENATE SPONSOR: Trunzo

ORIGIN OF BILL (if known):

SECTIONS OF LAW AFFECTED: Amends Section 34-0103 (3) and (4); and Section 34-0113 of the Environmental Conservation Law.

DUAL REFERENCE REQUESTS:

DUAL REFERRED FROM:

I. SUBJECT AND PURPOSE:

The purpose of this bill is to avoid state regulation of coastal areas where it is not needed.

II. SUMMARY AND DESCRIPTION OF PROVISIONS:

This bill would exempt areas from state coastal erosion regulation that have already been designated as special protection areas (i.e., National Seashores) by the federal government.

III. EFFECTIVE DATE:

30 days after enactment.

IV. LEGISLATIVE HISTORY:

New legislation.

V. ARGUMENTS IN SUPPORT:

In 1964, the United States Congress effectively imposed federal jurisdiction in this area by enacting the Seashore Act. That act created a National Seashore under the stewardship of the Secretary of the Interior, with carefully crafted provisions to preserve previously developed communities and provide such communities with the possibility of exemption from federal condemnation and of limited future development consistent with federal standards.

It is highly unnecessary for New York State to now try and add another layer of bureaucratic regulations when strict Federal guidelines are already in place. (Sponsor)

VI. ARGUMENTS IN OPPOSITION:

The Department of Environmental Conservation is opposed to this bill for the following reasons:

1) the provisions of the bill would be overly inclusive in that they include the Gateway National Seashore;

2) the department regulatory program for coastal erosion has been sanctioned by the National Park Service; and

3) the controls on Fire Island are supported locally - specifically, the Town of Islip favors the current Department of Environmental Conservation program. (Staff)

VII. TECHNICAL DEFICIENCIES:

None identified. (Staff)

VIII. FISCAL IMPLICATIONS:

None identified. (Staff)

PCS:RC/ct 5/2/85

United Mobile Sportfishermen, Inc.

Member Organizations:
Assateague Mobile Sportfishermen • Cape Hatteras Anglers Club • Cape Lookout Mobile Sportfishermen
Delaware Mobile Surfishermen • East End Anglers Club • Farragut Striper Club
Great South Beach Mobile Sportfishermen • Happy Hookers Fishing Club • Hartford Surf Club • Long Island Beach Buggy Association
Massachusetts Beach Buggy Association • Mobile Sportfishermen of Connecticut • Montauk Surfcasters Association
Nags Head Fishing Club • New Jersey Beach Buggy Association • North Carolina Beach Buggy Association
Rhode Island Mobile Sportfishermen • Thundermist Striper Club

Affiliations:
National Coalition For Marine Conservation • National Outdoor Coalition • United Four Wheel Drive Associations

Executive Director
William F. Miller
7 Sussex Lane
Bethpage, NY 11714
(516) 681-5653

President
George Deems
April 1 to October 31
Box 751
Kill Devil Hills, NC 27948
(919) 441-7478
November 1 to March 31
416 Sleepy Hollow Road
Richmond, VA 23229
(804) 740-8134

Executive Vice President
Ed Ferry
2249 Loring Place
Bronx, NY 10468
(212) 933-7797

Vice President
Ron Woods
501 Estaugh Avenue
Westmont, NJ 08108
(609) 854-4825

Treasurer
Conrad F. Smith
15 Bow Street
Woburn, MA 01801
(617) 933-6847

Secretary
Art Noyes
300 South Street, Apt. R-4
Vernon, CT 06066
(203) 872-2322

Membership Secretary
Jim Simpkins
13 Holly Drive
Woodbury, NJ 08096
(609) 845-7874

The Honorable Malcolm Wallop
Chairman,Subcommittee on Public Lands,
Reserved Water and Resource Conservation
Committee on Energy and Natural Resources
U.S.Senate
Washington,D.C. 20510

June 28,1986

Dear Senator Wallop,

On behalf of the 12,000 members of our affiliates, including five New York associations, we wish to register for the record our opposition to S.2483 to amend the Fire Island National Seashore Act of 1964.

I am personally appreciative of your staff member Pat Kennedy's assistance in expeditiously providing me copy of this locally unpublicized bill.

The bill attacks the federal Coastal Zone Management Act (CZMA) and New York's Coastal Management Program, as well as other statutes effecting barrier islands. We have been very supportive of the CZMA as it carried the promise of improved public access to coastal areas as well as providing for rational coastal policies.

Unfortunately, when our members have sought improved recreational access to the Fire Island National Seashore (FINS), one of the obstacles has frequently been the seasonal resident homeowners who are concerned with their "safety", privacy (or exclusivity) and concern that improved public access will result in burglary or vandalism of their summer homes. We think FINS should be a year round public recreation area for all, not just a privileged few on a seasonal basis.It should be and was established as a national seashore for all people of the nation,but it hasn't worked out that way.

Consequently,we fail to see how a bill that would grant exemption of application of statutes would benefit the nation or serve the public interest.The bill is for private benefit of an influential and affluent group and in our view will not help to preserve and protect this national asset for future generations, except for the privileged few.

Representing all major over-sand surffishing vehicle organizations in the United States for the preservation of beach access and coastal resources

It is but another example of special privilege for special interests which the New York sponsers unfortunately now would cater to.Yes, it is pure pork barrel and in this day of G-R-H it should no longer be tolerable.

It will require the general taxpayer to continue to subsidize federal flood insurance and pay for coastal erosion protection projects which are contrary to their best interests and the integrity of the barrier island, among other things.The enclosed new clip, a letter to the editor, is another recent example of one of the sponsers advocacy for spending public funds to protect private property at a location further east of the FINS.Here too, these shorefront owners have exclusive use of the public shore and do their utmost to keep it that way.Coastal erosion projects that protect private development all too often adversely effect publicly-owned shorefront at federal and state parks and thus carry a public penalty even when not publicly funded.

We understand that New York Department of State, the NY CZMA agency opposes enactment of this bill, and we are in full accord with them. We encourage Secretary Shaffer to persist so that special interests can not erode the laws which serve the state and national interest.

Respectfully,
William E. Miller
William E.Miller

encl.

copy to
NY DOS (G.Stafford)
UMS Internal

Newsday Photo

Storm damage along the oceanfront in the Dune Road area of Westhampton Beach

Let's Restrict Coastal Development

For ages, men have shunned the barrier beaches of the world as a place of residence, since the beaches are mobile and cannot be relied upon to be in the same place year after year. Now we have the spectacle of men with more money than sense building elaborate mansions along the shore either with the prospect of great profit or the prospect of a luxurious seaside villa.

Referring to the article about erosion at Dune Road in Westhampton ["Dune Road Ban Up for Renewal," May 20] these people have built these summer homes, often at a cost of multiple millions, and have the temerity to plead for county, state and federal aid to build up the beaches that nature has removed. This is beyond the understanding of those of us who must pay the tax bill for the repeated restoration of the beaches.

These homes are not the primary residence for any of the owners. These are built as weekend summer resorts or as speculative ventures. No prudent person would put a life savings into a venture on the edge of a cliff

These beaches are as precarious as a crumbling cliff; beaches that would never be built on if those who do the building were not thoroughly convinced that the government would rescue them every time the ocean took their investments away.

Recently, Sen. Alfonse D'Amato (R-NY) was quoted as saying he had no idea that there was any opposition at all to the idea of spending federal funds for the restoration of the beach at Dune Road. The good senator must think that the tooth fairy sends all those millions of federal dollars and that they really do not cost the local taypayers anything.

Of course, we are concerned about the expenditure of $100 million of federal and county monies to be literally poured into the ocean. That is the amount being considered at this time to be spent over the next 10 years — $100 million. To put that in comprehensible terms, this amounts to about $10,000 for every foot of beachfront.

It was a great thrill to read that Secretary of State Gail S. Shaffer had the courage to state at the governor's hurricane conference that "instead of spending millions of dollars to rebuild beachfront homes and roads damaged in storms . . . New York should restrict coastal development and encourage gradual relocation of communities already on the shore." ["Official Urges Less Building on Coasts," May 29].

I urge Newsday to support the ideas put forward by Shaffer with regard to limiting the state's part in financial rescue of unwise building locations and to cast your editorial spotlight on this matter so that those citizens in other parts of Suffolk County can understand the magnitude of the raid on the public funds.

James Miller
Center Moriches

NEWSDAY 6-10-86

The Mountaineers
300 Third Avenue West • Seattle, Washington 98119 • (206) 284-6310
BRANCHES IN TACOMA, EVERETT, OLYMPIA AND BELLINGHAM

June 16, 1986

Senate Energy and Natural Resources Committee
U.S. Senate
Washington, D.C. 20510

Re: Testimony of The Mountaineers on S.2351

The Mountaineers is the largest conservation and outdoor organization in the State of Washington, with more than 11,000 members. For many years, The Mountaineers and its members have taken an active role in the creation and management of Olympic National Park. We appreciate the opportunity to present this statement on the proposed land exchange between Olympic National Park and the Olympic National Forest contained in S.2351.

We are pleased that the proposed land exchange attempts to change the boundaries of the Park along hydrographic or ridge top boundaries. We support the proposed land exchange as outlined in the Environmental Assessment, with the additions and comments outlined below.

The bill proposes the boundary adjustments set forth in the Environmental Assessment. These "minor adjustments" would transfer 1,236 acres from the Park to the Forest, and 1,954 from the Forest to the Park, leaving a net addition to the Park of 718 acres. However, gross acreage does not tell the entire story. Much of the land which is being transferred from the Forest to Park is over 3,000 feet in elevation, is rocky, has steep slopes, and little commercial timber. On the other hand, much of the land transferred from the Park to the Forest is low elevation land with heavy timber volumes, high quality wood, and old growth forests. Because there is little old growth forest remaining in the State of Washington and, in fact, in the United States, any transfer of old growth forest out of the Park deserves the most careful scrutiny. This is particularly true of the Pine Mountain area being transferred from the Park to the Forest which, according to the EA, is "all old growth forest ecosystem over 400 years in age." This area also includes Western red cedar, which is very unusual outside of protected areas. In addition, the land in the Quinault area "is all old growth timber over 200 years in age." This area again has a high timber volume with valuable red cedar. The Mountaineers in general opposes the transfer of low elevation old growth areas out of Park Service lands, and we would only agree to these proposed transfers if the total package of lands involved in the transfer was satisfactory.

We believe that the lands designated for transfer to the Park in the EA are not sufficient to justify the loss of old growth from the Park. However, if a number of additional areas not recommended in the EA were transferred to the Park, then the total package might be acceptable.

Although the EA mentions that other areas were not considered for exchange because of concern about maintaining the timber harvest base on the Olympic Peninsula, we believe that this concern is not well founded. As indicated above, much of the Forest Service land to be transferred to the Park is high elevation land with cliffs, rocky soil, and no commercial forest land. Other areas that do contain commercial forest land would not be available for harvesting because the timber would be reserved for SOMA. In addition, the exchange would open up for harvest areas that are presently inaccessible, such as the large block south of the Sitcum River. For these reasons, we think that additional areas can and should be added to the Park as part of the land exchange, and that such additions will have only a negligible impact on the commercial timber base.

The Madison Creek drainage of 482 acres east of the Elwha River would be an addition to the Park along the watershed divide that would make an excellent boundary adjustment. Adding this area to the Park should have no impact on harvest levels, since the Forest Service should not be logging there because of wildlife habitat constraints.

An additional transfer would be two minor adjustments in the Sams River drainage, transferring a 50 acre triangle of land on the ridge north of Sams River to the Park and transferring a similar sized parcel south of the river to the Forest. These exchanges would place the boundary on a ridge line.

Another adjustment would extend the ridge top boundary to the southern edge of section 15, a distance of approximately 2 miles. This addition would keep the mainstem of Finley Creek entirely within the Park. Also, the various scattered parcels of Forest Land along the Quinault River which are not contiguous to Forest Lands, but are contiguous to the Park, should be transferred to the Park.

We support the proposals for the Higley Creek-Canoe Creek exchange and the additions of private lands at the eastern end of Lake Crescent as proposed in the EA.

We agree with the Park Service that no Park lands in Alckee Creek should be exchanged to the Forest. In fact, we recommend that the boundary of the Park be moved to the ridge to the west of and above Alckee Creek to extend northeast from Pine Mountain. This would place the boundary on hydrographic boundaries and would protect the entire watershed of Alckee Creek. This creek is important for salmon and steelhead fisheries, is an important habitat for bald eagles (an endangered species), and is a major drainage of the Soleduc River, one of the major anadromous fishery rivers within the Park. The present boundaries protect half of the watershed and leave the other half open for logging, which is undesirable. Moving the boundary to the ridge crest to the west of the creek would be an important step in preserving the wild stocks of salmon within the Park. The existing logging road should be removed and the cut area replanted to its original forest mix.

The bill provides for a one-time extension of the Glines Canyon Dam on the Elwha River within the Park and authorizes a study as to the feasibility of removing the dam. Although this dam was built before the Park was created, we feel that dams are basically incompatible with preservation of the natural environment, which is the purpose of a National Park. Further, this dam has no fish ladders and prohibits anadromous fish runs on the Elwha River. We think the feasibility study for removing the dam is appropriate, and the decision as to year to year operation of the dam should be made by the Secretary of the Interior rather than the Federal Energy Regulatory Commission. After an appropriate phase-out period the dam should be removed.

The proposed bill would expand the ocean strip of the Park to low low tide. At present, the tidal areas from mean high tide are under the jurisdiction of the Washington State Parks Commission and administered by the Department of Fisheries. As a theoretical matter this may be satisfactory, but as a practical matter State Parks and the Department of Fisheries do not have the resources or personnel to adequately police these areas. As a result there has been substantial degradation of the aquatic life in the tide pools between mean high tide and low low tide. We feel that it is appropriate, and in fact necessary, that the Park Service be given jurisdiction so that the entire ocean beach strip and the marine resources can be adequately protected.

Thank you for the opportunity to offer this testimony on this bill.

Sincerely,

THE MOUNTAINEERS

William H. Maxwell
President

WHM:dj

\onpbound.tes